

1 inheritance tax in the first spouse's estate pursuant to an election made under KRS
 2 140.080(1)(a) shall be deemed to be equal to the entire value of the property held in
 3 the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax
 4 purposes in the surviving spouse's estate.

5 ➔Section 111. KRS 141.0405 is amended to read as follows:

6 (1) There shall be allowed a nonrefundable credit against taxes imposed by the
 7 Commonwealth on any taxpayer that:

- 8 (a) 1. Is an electric power company subject to tax under KRS 136.120;
- 9 2. Is an entity that owns or operates a coal-fired electric generation plant;
- 10 or
- 11 3. Is an alternative fuel facility as defined in KRS 154.27-010 or a
- 12 gasification facility as defined in KRS 154.27-010 that has not been
- 13 approved for incentives under Subchapter 27 of KRS Chapter 154;

14 (b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020,
 15 141.040, or 141.0401; and

16 (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used:

- 17 1. For the purpose of generating electricity; or
- 18 2. As feedstock for an alternative fuel facility as defined in KRS 154.27-
- 19 010 or a gasification facility as defined in KRS 154.27-010;

20 by the taxpayers, or by a parent company if the taxpayer is a wholly owned
 21 subsidiary.

22 (2) The amount of the allowable credit shall be two dollars (\$2) per each incentive ton
 23 of coal purchased that is subject to tax under KRS 143.020 and that is used to
 24 generate electric power or used as feedstock for an alternative fuel facility as
 25 defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010.

26 (3) (a) Incentive tons are calculated as the tons of coal purchased in the current year
 27 for which coal severance tax was paid minus the tons of coal purchased and

1 used during the base year.

2 (b) For an existing electric power company subject to tax under KRS 136.120 that
3 expands operations to include an alternative fuel facility as defined in KRS
4 154.27-010 or a gasification facility as defined in KRS 154.27-010, the
5 incentive tons for the expanded operation calculated in paragraph (a) of this
6 subsection shall not include any coal subject to the incentives provided under
7 KRS 143.024 and 154.27-060.

8 (4) The base year amount shall be equal to:

9 (a) For entities existing on July 14, 2000, that meet the eligibility requirements
10 imposed under subsection (1) of this section, the tons of coal purchased and
11 used to generate electricity during the twelve (12) calendar months ending in
12 December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

13 (b) For entities that come into existence after July 14, 2000, that meet the
14 eligibility requirements imposed under subsection (1) of this section, the base
15 year amount shall be equal to zero (0). However, no company qualifying for
16 the credit as of July 14, 2000, with a base year calculation as provided under
17 subsection (4)(a) of this section may create an affiliate, subsidiary, or
18 corporation that would qualify for a base year of zero (0).

19 (5) On or before March 15 of each year, a company eligible for the credit provided
20 under subsection (2) of this section shall file a coal incentive credit claim on forms
21 prescribed by the department. At the time of filing for the credit, the taxpayer shall
22 submit verification of the tons of coal purchased in the base year and the tons of
23 coal purchased in the year for which the credit is being claimed. The department
24 shall determine the amount of the eligible credit and issue a credit certificate to the
25 taxpayer.

26 (6) The taxpayer shall be eligible to apply, subject to the conditions imposed under
27 subsection (7) of this section, the amount identified on the credit certificate issued

1 by the department under subsection (5) of this section, against the taxpayer's
2 liability for the taxes, in consecutive order as follows:

3 (a) The credit shall first be applied against both the taxes imposed by KRS
4 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering
5 of credits as provided in KRS 141.0205;

6 (b) The credit shall next be applied to the taxes imposed by KRS 136.070; and

7 (c) Any remaining credit shall be applied against the taxes imposed by KRS
8 136.120.

9 (7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed
10 in consecutive order under subsection (6) of this section before applying the
11 remaining credit to the next tax listed in consecutive order. The taxpayer's total
12 liability under each preceding tax must be fully met before the remaining credit can
13 be applied to the subsequent tax listed in consecutive order.

14 (8) The taxpayer shall maintain records required in subsection (5) of this section for a
15 period of five (5) years.

16 (9) Acceptable verification of coal purchased during the base year shall include
17 invoices that indicate the tons of coal purchased from a Kentucky supplier of coal
18 and proof of remittance for that purchase.

19 (10) The department shall develop the forms required under subsection (5) of this
20 section, specifying the procedure for claiming the credit, and applying the credit
21 against the taxpayer's liability in the order provided under subsections (6) and (7) of
22 this section.

23 (11) The Department for Energy Development and Independence ~~Governor's Office of~~
24 ~~Energy Policy established by KRS 152.712~~ shall:

- 25 (a) 1. Certify that an alternative fuel facility for which a credit is being
26 requested meets the definition as provided in KRS 154.27-010; or
27 2. Certify that a gasification facility for which a credit is being requested

1 meets the definition as provided in KRS 154.27-010; and

2 (b) Notify the department of the certification.

3 (12) To assist in determining the amount of coal purchased and used that is eligible for
4 the credit, the department shall obtain from the University of Kentucky Center for
5 Applied Energy Research a reasonable and typical estimate of the tons of coal
6 needed to produce a given output of coal-derived alternative transportation fuels,
7 coal-derived synthetic natural gas, coal-derived liquid fuels, or other coal-derived
8 chemicals or chemical feedstocks, considering:

9 (a) The type of coal to be used;

10 (b) Equipment to be employed;

11 (c) Size and output of the facility;

12 (d) Slate of products produced; and

13 (e) Other characteristics of the alternative fuel facility or gasification facility.

14 ➔Section 112. KRS 141.418 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Hazardous substances" shall have the meaning provided in KRS 224.01-400;

17 (b) "Pollutant or contaminant" shall have the meaning provided in KRS 224.01-
18 400;

19 (c) "Petroleum" and "petroleum products" shall have the meaning provided in
20 KRS 224.60-115;

21 (d) "Release" shall have the meaning as provided in either or both KRS 224.01-
22 400 and KRS 224.60-115;

23 (e) "Qualifying voluntary environmental remediation property" means real
24 property subject to the provisions of KRS 224.01-400, KRS 224.01-405, or
25 224.60-135 where the Energy and Environment~~Environmental and Public~~
26 ~~Protection~~ Cabinet has made a determination that:

27 1. All releases of hazardous substances, pollutants, contaminants,

- 1 petroleum, or petroleum products on the property occurred prior to the
- 2 property owner's acquisition of the property;
- 3 2. The property owner made all appropriate inquiry into previous
- 4 ownership and uses of the property in accordance with generally
- 5 accepted practices;
- 6 3. The property owner or a responsible party has provided all legally
- 7 required notices with respect to hazardous substances, pollutants,
- 8 contaminants, petroleum, or petroleum products found at the property;
- 9 4. The property owner is in compliance with all land use restrictions and
- 10 does not impede the effectiveness or integrity of any institutional
- 11 control;
- 12 5. The property owner complied with any information request or
- 13 administrative subpoena under KRS Chapter 224; and
- 14 6. The property owner is not affiliated with any person who is potentially
- 15 liable for the release of hazardous substances, pollutants, contaminants,
- 16 petroleum, or petroleum products on the property pursuant to KRS
- 17 224.01-400, 224.01-405, or 224.60-135, through:
 - 18 a. Direct or indirect familial relationship;
 - 19 b. Any contractual, corporate, or financial relationship, excluding
 - 20 relationships created by instruments conveying or financing title or
 - 21 by contracts for sale of goods or services; or
 - 22 c. Reorganization of a business entity that was potentially liable;
- 23 (f) "Expenditures" means payment for work to characterize the extent of
- 24 contamination and to remediate the contamination at a qualifying voluntary
- 25 environmental remediation property; and
- 26 (g) "Taxpayer" means an individual subject to tax under KRS 141.020 or a
- 27 corporation subject to tax under KRS 141.040.

- 1 (2) (a) There shall be allowed a nonrefundable credit against the tax imposed under
 2 KRS 141.020 or 141.040 for taxable years beginning after December 31,
 3 2004, and against the tax imposed by KRS 141.0401 for taxable years
 4 beginning after December 31, 2006, for taxpayer expenditures made at a
 5 qualifying voluntary environmental remediation property in order to correct
 6 the effect of a release of hazardous substances, pollutants, contaminants,
 7 petroleum, or petroleum products on the property pursuant to KRS 224. 01-
 8 400, 224.01-405, or 224.60-135, consistent with a corrective action plan
 9 approved by the Energy and Environment~~Environmental and Public~~
 10 ~~Protection~~ Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135,
 11 and provided the cleanup was not financed through a public grant program or
 12 the petroleum storage tank environmental assurance fund.
- 13 (b) The credit allowed under paragraph (a) of this subsection shall be applied both
 14 to the income tax imposed under KRS 141.020 or 141.040 and to the limited
 15 liability entity tax imposed under KRS 141.0401, with the ordering of the
 16 credits as provided in KRS 141.0205.
- 17 (3) The maximum total credit for each taxpayer shall not exceed one hundred fifty
 18 thousand dollars (\$150,000). For purposes of this section, an affiliated group of
 19 taxpayers required to file a consolidated return under KRS 141.200 shall be treated
 20 as one (1) taxpayer.
- 21 (4) A taxpayer claiming a credit under this section shall submit receipts to the Energy
 22 and Environment~~Environmental and Public Protection~~ Cabinet in proof of the
 23 expenditures claimed. The Energy and Environment~~Environmental and Public~~
 24 ~~Protection~~ Cabinet shall verify the receipts. After the receipts are verified, the
 25 Finance and Administration Cabinet shall notify the taxpayer of eligibility for the
 26 credit.
- 27 (5) The credit may be first claimed on the income tax return of the taxpayer filed in the

1 taxable year during which the credit was certified. The amount of the allowable
 2 credit for any taxable year shall be twenty-five percent (25%) of the maximum
 3 credit approved. The credit may be carried forward for ten (10) successive taxable
 4 years.

- 5 (6) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit against
 6 the limited liability entity tax imposed by KRS 141.0401, and shall also pass the
 7 credit through to its members, partners, or shareholders in the same proportion as
 8 the distributive share of income or loss is passed through.

9 ➔Section 113. KRS 141.428 is amended to read as follows:

- 10 (1) As used in this section:

- 11 (a) "Clean coal facility" means an electric generation facility beginning
 12 commercial operation on or after January 1, 2005, at a cost greater than one
 13 hundred fifty million dollars (\$150,000,000) that is located in the
 14 Commonwealth of Kentucky and is certified by the Energy and
 15 Environment~~[Environmental and Public Protection]~~ Cabinet as reducing
 16 emissions of pollutants released during generation of electricity through the
 17 use of clean coal equipment and technologies;
- 18 (b) "Clean coal equipment" means equipment purchased and installed for
 19 commercial use in a clean coal facility to aid in reducing the level of
 20 pollutants released during the generation of electricity from eligible coal;
- 21 (c) "Clean coal technologies" means technologies incorporated for use within a
 22 clean coal facility to lower emissions of pollutants released during the
 23 generation of electricity from eligible coal;
- 24 (d) "Eligible coal" means coal that is subject to the tax imposed under KRS
 25 143.020;
- 26 (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and
- 27 (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).

1 (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,
2 nontransferable credit shall be allowed for:

3 (a) Any electric power company subject to tax under KRS 136.120 and certified
4 as a clean coal facility or any taxpayer that owns or operates a clean coal
5 facility and purchases eligible coal that is used by the taxpayer in a certified
6 clean coal facility; or

7 (b) A parent company of an entity identified in paragraph (a) of this subsection if
8 the subsidiary is wholly owned.

9 (3) (a) The credit may be taken against the taxes imposed by:

10 1. KRS 136.070;

11 2. KRS 136.120; or

12 3. KRS 141.020 or 141.040, and 141.0401.

13 (b) The credit shall not be carried forward and must be used on the tax return filed
14 for the period during which the eligible coal was purchased. The Energy and
15 Environment~~[Environmental and Public Protection]~~ Cabinet must approve
16 and certify use of the clean coal equipment and technologies within a clean
17 coal facility before any taxpayer may claim the credit.

18 (c) The credit allowed under paragraph (a) of this subsection shall be applied both
19 to the income tax imposed under KRS 141.020 or 141.040 and to the limited
20 liability entity tax imposed under KRS 141.0401, with the ordering of credits
21 as provided in KRS 141.0205.

22 (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal
23 purchased that is used to generate electric power at a certified clean coal facility,
24 except that no credit shall be allowed if the eligible coal has been used to generate a
25 credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary.

26 (5) Each taxpayer eligible for the credit provided under subsection (2) of this section
27 shall file a clean coal incentive credit claim on forms prescribed by the Department

1 of Revenue. At the time of filing for the credit, the taxpayer shall submit an
 2 electronic report verifying the tons of coal subject to the tax imposed by KRS
 3 143.020 purchased for each year in which the credit is claimed. The Department of
 4 Revenue shall determine the amount of the approved credit and issue a credit
 5 certificate to the taxpayer.

6 (6) Corporations and pass-through entities subject to the tax imposed under KRS
 7 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed
 8 under this section, the approved credit against its liability for the taxes, in
 9 consecutive order as follows:

10 (a) The credit shall first be applied against both the tax imposed by KRS
 11 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering
 12 of credits as provided in KRS 141.0205;

13 (b) The credit shall then be applied to the tax imposed by KRS 136.120.

14 The credit shall meet the entirety of the taxpayer's liability under the first tax listed
 15 in consecutive order before applying any remaining credit to the next tax listed. The
 16 taxpayer's total liability under each preceding tax must be fully met before the
 17 remaining credit can be applied to the subsequent tax listed in consecutive order.

18 (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the
 19 amount of approved credit shall be applied against the tax imposed by KRS
 20 141.0401 at the entity level, and shall also be distributed to each partner, member,
 21 or shareholder based on the partner's, member's, or shareholder's distributive share
 22 of the income of the pass-through entity. The credit shall be claimed in the same
 23 manner as specified in subsection (6) of this section. Each pass-through entity shall
 24 notify the Department of Revenue electronically of all partners, members, or
 25 shareholders who may claim any amount of the approved credit. Failure to provide
 26 information to the Department of Revenue in a manner prescribed by regulation
 27 may constitute the forfeiture of available credits to all partners, members, or

1 shareholders associated with the pass-through entity.

2 (8) The taxpayer shall maintain all records associated with the credit for a period of five
3 (5) years. Acceptable verification of eligible coal purchased shall include invoices
4 that indicate the tons of eligible coal purchased from a Kentucky supplier of coal
5 and proof of remittance for that purchase.

6 (9) The Department of Revenue shall develop the forms required under this section,
7 specifying the procedure for claiming the credit, and applying the credit against the
8 taxpayer's liability in the order provided under subsections (6) and (7) of this
9 section.

10 (10) The Department for Energy Development and Independence within the Energy
11 and Environment~~Governor's Office of Energy Policy, Environmental and Public~~
12 ~~Protection~~ Cabinet~~[,]~~ and the Department of Revenue shall promulgate
13 administrative regulations necessary to administer this section.

14 (11) This section shall be known as the Kentucky Clean Coal Incentive Act.

15 ➔Section 114. KRS 141.436 is amended to read as follows:

16 (1) (a) For taxable periods beginning after December 31, 2008, and beginning before
17 January 1, 2016, there is hereby created a nonrefundable credit against the tax
18 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the
19 ordering of credits as provided in KRS 141.0205. The credit shall apply if one
20 (1) or more of the items listed in paragraph (b) of this subsection is installed
21 during the taxable year in a dwelling unit located in the Commonwealth that is
22 owned by the taxpayer and used by the taxpayer as:

- 23 1. The taxpayer's principal place of residence; or
- 24 2. A single-family or multifamily residential rental unit.

25 (b) The tax credit shall equal thirty percent (30%) of the installed costs of:

- 26 1. Upgraded insulation, not to exceed one hundred dollars (\$100);
- 27 2. Energy-efficient windows and storm doors, not to exceed two hundred

1 fifty dollars (\$250); or

2 3. Qualified energy property, not to exceed two hundred fifty dollars
3 (\$250).

4 (c) In no case shall the total credits provided under this subsection exceed five
5 hundred dollars (\$500) per taxpayer.

6 (2) (a) For taxable years beginning after December 31, 2008, and beginning before
7 January 1, 2016, there is hereby created a nonrefundable credit against the tax
8 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the
9 ordering of credits as provided in KRS 141.0205, if one (1) or more of the
10 items listed in paragraph (b) of this subsection is installed during the taxable
11 year on a dwelling unit located in the Commonwealth, or on property located
12 in the Commonwealth that is owned and used by the taxpayer as commercial
13 property.

14 (b) The tax credit shall equal:

15 1. Thirty percent (30%) of the installed costs of:

16 a. An active solar space-heating system;

17 b. A passive solar space-heating system;

18 c. A combined active solar space-heating and water-heating system;

19 d. A solar water-heating system; and

20 e. A wind turbine or wind machine; or

21 2. Three dollars (\$3) per watt direct current (DC) of rated capacity of a
22 solar photovoltaic system.

23 (c) In no case shall the total tax credits provided in this subsection exceed:

24 1. Five hundred dollars (\$500) per taxpayer if installed on a dwelling unit
25 located in the Commonwealth that is owned by the taxpayer and used by
26 the taxpayer as:

27 a. The taxpayer's principal place of residence; or

- 1 b. A single-family residential rental unit; or
- 2 2. One thousand dollars (\$1,000) per taxpayer if installed on property
- 3 located in the Commonwealth that is owned and used by the taxpayer as:
- 4 a. A multifamily residential rental unit; or
- 5 b. Commercial property;
- 6 (3) (a) For taxable years beginning after December 31, 2008, and beginning before
- 7 January 1, 2016, there is hereby created a nonrefundable credit against the tax
- 8 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the
- 9 ordering of credits as provided in KRS 141.0205, if one (1) or more of the
- 10 following is installed during the taxable year on property located in the
- 11 Commonwealth that is owned and used by the taxpayer as commercial
- 12 property:
- 13 1. An energy-efficient interior lighting system; and
- 14 2. An energy-efficient heating, cooling, ventilation, or hot water system.
- 15 (b) The tax credit shall equal thirty percent (30%) of the installed costs of:
- 16 1. An energy-efficient interior lighting system, not to exceed five hundred
- 17 dollars (\$500) per taxpayer; and
- 18 2. An energy-efficient heating, cooling, ventilation, or hot water system,
- 19 not to exceed five hundred dollars (\$500) per taxpayer.
- 20 (c) In no case shall the total tax credits provided in this subsection exceed one
- 21 thousand dollars (\$1,000) per taxpayer.
- 22 (d) For purposes of the tax credit provided by this subsection, "commercial
- 23 property" shall not include single-family or multifamily residential units.
- 24 (4) The tax credits provided under this section shall apply in the tax year in which the
- 25 installation is completed. If the credit cannot be taken in full in the year in which the
- 26 installation is completed, the tax credit may be carried forward one (1) year.
- 27 (5) The department may request copies of invoices, purchase receipts, installation

1 contracts, proof of installer's NABCEP certification, and any other information that
2 the department determines necessary to verify credits taken.

3 (6) If the taxpayer has taken the ENERGY STAR home or the ENERGY STAR
4 manufactured home tax credit provided under KRS 141.437, the tax credits
5 provided under this section shall not apply.

6 (7) The department shall establish, by administrative regulation, the guidelines and
7 technical requirements for items that are eligible for the tax credits provided under
8 subsection (2) of this section, including but not limited to requirements for capacity,
9 siting, plumbing, collector mountings, and pressurization. The department shall
10 enlist the assistance, cooperation, and recommendations of the Department for
11 Energy Development and Independence~~[Governor's Office of Energy Policy]~~ and
12 the Kentucky Pollution Prevention Center at the University of Louisville in
13 determining those guidelines and technical requirements and may enlist their
14 assistance in evaluating the eligibility of credits taken under this section.

15 (8) On or before December 1, 2010, and on or before every December 1 thereafter, the
16 department shall report to the Legislative Research Commission the total number
17 and gross amount of each type of tax credit claimed on returns processed during the
18 fiscal year ending prior to the December reporting date.

19 ➔Section 115. KRS 143.090 is amended to read as follows:

20 (1) The Transportation Cabinet shall certify to the commissioner of the Department of
21 Revenue by October 1 of each fiscal year the amount required for lease rental
22 payments to the Kentucky Turnpike Authority for resource recovery road projects.

23 (2) The Department for Energy Development and Independence~~[Office of Energy~~
24 ~~Policy]~~ shall certify to the commissioner of the Department of Revenue by October
25 1 of each year the amount of the annual lease rental payments required to be made
26 for any energy research development~~[developmental]~~ or demonstration project
27 undertaken by the Department for Energy Development and Independence~~[Office~~

1 of ~~Energy Policy~~}. The amount so certified shall in no case exceed three million
 2 dollars (\$3,000,000) in any one (1) year.

3 (3) Upon receiving the certifications provided for in subsections (1) and (2) of this
 4 section, the commissioner of the Department of Revenue shall cause the certified
 5 amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the
 6 credit of the transportation fund and the Department for Energy Development and
 7 Independence~~[Office of Energy Policy]~~, respectively, unless otherwise provided by
 8 the General Assembly in a budget bill, as follows:

9 (a) An amount equal to the amount certified by the Transportation Cabinet shall
 10 be deposited to the transportation fund (road fund); and

11 (b) An amount equal to the amount certified by the Department for Energy
 12 Development and Independence~~[Office of Energy Policy]~~ shall be transferred
 13 by appropriate interfund transfer procedures to the Department for Energy
 14 Development and Independence~~[Office of Energy Policy]~~.

15 (4) All tax levied by KRS 143.020 collected in excess of the amount required to be
 16 deposited to the transportation fund (road fund) or transferred to the Department
 17 for Energy Development and Independence~~[Office of Energy Policy]~~ shall be
 18 deposited by the Department of Revenue to the credit of the general fund.

19 (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified
 20 under subsections (1) and (2) of this section, the commissioner of revenue shall
 21 prorate the proceeds to the transportation fund and the Department for Energy
 22 Development and Independence~~[Office of Energy Policy]~~ based upon the ratio of
 23 each certified amount to the total of the two (2) certified amounts.

24 ➔Section 116. KRS 143A.033 is amended to read as follows:

25 (1) As used in this section, "recovered inactive well" means a well that has been
 26 inactive for a consecutive two (2) year period or a well that has been plugged and
 27 abandoned, as determined by the Energy and Environment~~[Environmental and~~

1 ~~Public Protection]~~ Cabinet, Division of Oil and Gas ~~Conservation]~~, and that
 2 resumes producing natural gas.

- 3 (2) Every taxpayer engaged in severing or processing natural gas within this
 4 Commonwealth shall be allowed a credit against the tax imposed under KRS
 5 143A.020 equal to four and one-half percent (4.5%) of the gross value of natural
 6 gas that is produced from a recovered inactive well.

7 ➔Section 117. KRS 146.080 is amended to read as follows:

8 There is hereby created, within the Department for Natural Resources~~Environmental~~
 9 ~~Protection]~~ in the Energy and Environment~~Environmental and Public Protection]~~
 10 Cabinet, a Division of Conservation. The division shall consist of a Soil and Water
 11 Conservation Commission, a director, and such officers, employees, and agents as the
 12 commission may deem necessary for carrying out the function of the division, through the
 13 commission and the director, to assist soil and water conservation districts and watershed
 14 conservancy districts organized under KRS Chapter 262 in carrying out the functions,
 15 powers, and duties conferred upon them by such chapter.

16 ➔Section 118. KRS 146.090 is amended to read as follows:

- 17 (1) The secretary for energy and environment~~environmental and public protection]~~,
 18 with the approval of the Soil and Water Conservation Commission shall divide the
 19 state into nine (9) soil and water conservation areas which shall contain as nearly as
 20 practicable, an equal number of soil and water conservation districts;
- 21 (2) The Soil and Water Conservation Commission shall consist of nine (9) members,
 22 not more than five (5) of whom shall be of the same political party, to be appointed
 23 by the secretary for energy and environment~~environmental and public protection]~~
 24 with the approval of the Governor;
- 25 (3) One (1) member shall be appointed from each of the areas from a list of two (2)
 26 names submitted from each such area by the supervisors of the soil and water
 27 conservation districts that have their principal offices therein. All members shall be

1 supervisors of soil and water conservation districts;

2 (4) The term of office of each such member shall be four (4) years; provided that,
 3 whenever a member of the commission ceases to hold the office of district
 4 supervisor by virtue of which he is serving on the commission, his term of office as
 5 a member of the commission shall be terminated. In the case of any vacancy other
 6 than the one (1) caused by the expiration of a term, the secretary for energy and
 7 environment~~environmental and public protection~~, with the approval of the
 8 Governor, shall appoint the successor from a list of two (2) names submitted by the
 9 supervisors of the soil and water conservation area which was represented by the
 10 former member. The successor shall also be a supervisor of a soil and water
 11 conservation district;

12 (5) The members of the commission shall designate a chairman from among their
 13 members and may from time to time change such designation. The commission
 14 shall keep a record of its official actions. A majority of the commission shall
 15 constitute a quorum. The commission may call upon the Attorney General for such
 16 legal services as it may require. It may delegate to its chairman, any of its members,
 17 the director of the division, or any officer, employee, or agent, such powers and
 18 duties as it deems proper. Members of the commission shall receive no
 19 compensation for their services, but shall be entitled to expenses, including
 20 traveling expenses, necessarily incurred in discharging their duties;

21 (6) The following persons are advisory members of the commission by virtue of their
 22 offices: the secretary for energy and environment~~environmental and public~~
 23 ~~protection~~, the Commissioner of Agriculture, the director of the agricultural
 24 experiment station, the director of vocational education, and the state
 25 conservationist of the United States Department of Agriculture.

26 ➔Section 119. KRS 146.100 is amended to read as follows:

27 (1) The secretary for energy and environment~~environmental and public protection~~,

1 with the approval of the Soil and Water Conservation Commission shall appoint a
 2 director of the Division of Conservation who shall be a graduate of a recognized
 3 agricultural college, with at least five (5) years practical experience in professional
 4 agricultural activities and who shall serve as executive officer for the commission.

5 The director shall serve at the will of, and receive such compensation as may be
 6 determined by the secretary for energy and environment~~environmental and public~~
 7 ~~protection~~ with the approval of the Soil and Water Conservation Commission.

8 Before entering upon his duties, the director shall take the constitutional oath. The
 9 director shall hold no other public office or employment. In addition to any other
 10 duties assigned to him by the secretary for energy and environment~~environmental~~
 11 ~~and public protection~~, the director shall exercise, subject to the approval of the
 12 secretary, general administrative supervision over all activities, employees and
 13 property of the commission;

- 14 (2) The secretary for energy and environment~~environmental and public protection~~
 15 may employ such other officers, employees, and agents, who shall serve at his will
 16 as he deems necessary, with the approval of the Soil and Water Conservation
 17 Commission, and shall provide for surety bonds for members, the director, officers,
 18 employees or agents if entrusted with funds or property.

19 ➔Section 120. KRS 146.131 is amended to read as follows:

20 The Energy and Environment~~Environmental and Public Protection~~ Cabinet, including
 21 any agency or other unit of government attached to the cabinet, shall immediately
 22 transmit to the Kentucky Department of Parks and to the Commonwealth's Railtrail
 23 Development Office in the Department for Local Government any information received
 24 from a railroad or other person having an ownership interest in a railroad corridor
 25 pertaining to a proposed or pending action or proceeding to obtain federal authority for
 26 the regulatory abandonment of that railroad corridor.

27 ➔Section 121. KRS 146.180 is amended to read as follows:

1 (1) The *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet may
 2 assess a fee for the use of any lock on a navigable waterway operated by the
 3 Commonwealth and formerly under jurisdiction of the United States Army Corps of
 4 Engineers and pursuant to completion of negotiations authorized by KRS 151.580.

5 (2) The fee shall not exceed five dollars (\$5) each time the lock gates are used
 6 regardless of the number of craft passing through said lock.

7 ➔Section 122. KRS 146.185 is amended to read as follows:

8 (1) No person shall attempt to utilize any lock on a navigable waterway operated by the
 9 Commonwealth without payment of the fee prescribed by KRS 146.180(2). At the
 10 time any person attempts to utilize the lock, the fee must be paid to the lockmaster
 11 or the employee who provides the service of opening the lock.

12 (2) The months, days and hours of lock operation shall be prescribed by the *Energy*
 13 *and Environment*~~[Environmental and Public Protection]~~ Cabinet.

14 (3) Each Monday following a period of lock operation, those individuals responsible
 15 for collection of fees shall remit all moneys collected to the cabinet in a manner
 16 prescribed by the cabinet.

17 ➔Section 123. KRS 146.210 is amended to read as follows:

18 As used in KRS 146.210 to 146.360, the words listed herein shall have the following
 19 respective meanings, unless another or different meaning or intent shall be clearly
 20 indicated by the context:

21 (1) "Stream or watercourse" shall mean a flowing body of water or a section or portion
 22 thereof, including rivers, streams, and creeks.

23 (2) "Free flowing" shall mean existing or flowing in a natural condition without
 24 impoundment, diversion, straightening, riprapping, or other modification of the
 25 waterway. The existence, however, of low dams, diversion works, and other minor
 26 structures at the time any stream is proposed for inclusion in the Wild Rivers
 27 System shall not automatically bar its consideration for such inclusion; provided,

1 that this shall not be construed to authorize or to be intended to encourage future
2 construction of such structures within components of the Wild Rivers System.

3 (3) "Road" shall mean a highway, a hard-surfaced road, or an improved or unimproved
4 dirt road. The existence, however, of unimproved roads at the time any stream is
5 proposed for inclusion in the Wild Rivers System shall not automatically bar its
6 consideration for such inclusion; provided, that this shall not be construed to
7 authorize or to be intended to encourage future construction of such roads where
8 this would be contrary to the provisions of KRS 146.200 to 146.360.

9 (4) "Wilderness type recreation" shall mean activities such as fishing, hunting,
10 canoeing, camping, hiking, horseback riding, exploring, archaeological and
11 scientific investigation, and scenic and aesthetic enjoyment, which utilizes and
12 protects to the highest degree the primitive and natural values of the area.

13 (5) "Visual horizon" shall mean the normal distance to which land and vegetative
14 features can be unobstructedly viewed from the center of the stream.

15 (6) "Access point" shall mean an area along the stream under public ownership, or
16 under easement acquired by agreement with a private landowner. This area would
17 be available for public recreational use including, but not limited to, the launching
18 of boats, picnicking, and camping.

19 (7) "Secretary" shall mean the secretary for energy and environment~~environmental~~
20 ~~and public protection~~ or the successor to that office.

21 ➔Section 124. KRS 146.230 is amended to read as follows:

22 Streams which substantially meet the following criteria are eligible for inclusion in the
23 Wild Rivers System:

24 Streams or sections of streams that are essentially free-flowing, with shorelines and
25 scenic vistas essentially primitive and unchanged, free from evidence of the works of
26 man, and pleasing to the eye. The waters shall not be polluted beyond feasible correction
27 and shall be kept unpolluted once corrected according to standards established by the

1 **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet. The area may
 2 provide a high quality fish and wildlife habitat, containing one or more unique or rare
 3 species for sport or observation. It may provide opportunities for scientific study or
 4 appreciation of essentially undisturbed ecological, geologic, or archaeologic conditions. It
 5 shall provide wilderness type recreation such as canoeing and hiking, or specialized uses
 6 without disturbing the primitive character of the area.

7 → Section 125. KRS 146.250 is amended to read as follows:

8 The secretary of the **Energy and Environment**~~[Environmental and Public Protection]~~
 9 Cabinet shall, by June 16, 1974, determine generally the boundaries of the stream area
 10 associated with the stream or stream segment initially included in the Wild Rivers System
 11 by KRS 146.200 to 146.360. Establishment of these boundaries shall be accomplished in
 12 such a way that it includes at least the visual horizon from the stream, but not more than
 13 two thousand (2,000) feet from the center of the stream. The boundary shall further
 14 include access points, at the upstream and downstream boundary of the area.

15 → Section 126. KRS 146.260 is amended to read as follows:

16 (1) The secretary for **energy and environment**~~[environmental and public protection]~~
 17 shall study and from time to time submit to the Governor and to the General
 18 Assembly proposals for additions to the Wild Rivers System of streams and sections
 19 of streams which, in his judgment, would qualify for inclusion therein. Each
 20 proposal shall be accompanied by:

21 (a) A detailed map showing the boundaries of the stream or sections of streams
 22 and those adjacent lands needed to protect and administer the needed controls.

23 (b) The category of the proposed additions in accordance with KRS 146.230.

24 (c) A detailed report on the factors which make the area a worthy addition to the
 25 system.

26 (2) The intention of this requirement is to insure that such studies will be made; it is not
 27 intended to preclude or discourage, but rather encourage similar studies and

1 proposals by other agencies or by citizen groups working independently. Authority
 2 for additions to the Wild Rivers System shall remain exclusively with the Kentucky
 3 General Assembly.

4 ➔Section 127. KRS 146.270 is amended to read as follows:

5 The Wild Rivers System shall be administered by the Energy and
 6 Environment~~[Environmental and Public Protection]~~ Cabinet according to the policies
 7 and criteria set forth in KRS 146.200 to 146.360. The secretary for energy and
 8 environment~~[environmental and public protection]~~ shall adopt such rules or regulations
 9 necessary for the preservation and enhancement of the stream areas as set forth in KRS
 10 146.250, and for control of recreational, educational, scientific, and other uses of these
 11 areas in a manner that shall not impair them. In such administration primary emphasis
 12 shall be given to protecting aesthetic, scenic, historic, archaeologic, and scientific features
 13 of the area. The secretary shall develop a management plan for a designated stream area
 14 and shall publicize and hold public hearings and record the views expressed on each plan
 15 developed. Management plans for a given stream area may establish varying degrees of
 16 intensity for its protection, based on special attributes of each area, but shall follow the
 17 concepts embodied in KRS 146.230. No public use of lands within the boundaries of a
 18 designated wild river area in which the state has acquired an interest shall be permitted
 19 prior to the development of a management plan. Any such management plan shall be
 20 developed jointly with the Department of Fish and Wildlife Resources with respect to
 21 those aspects of such plan as relate to the jurisdiction of that department over fish and
 22 wildlife resources.

23 ➔Section 128. KRS 146.280 is amended to read as follows:

24 (1) Within the boundaries of a designated stream area, as established and authorized by
 25 the Kentucky General Assembly, the secretary for energy and
 26 environment~~[environmental and public protection]~~ is authorized and empowered to
 27 acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or

otherwise, the fee simple title, an easement, or any acceptable lesser interest in any lands, and by lease or conveyance, contract for the right to use and occupy any lands. Where property within such boundaries is owned by the federal government, the secretary can enter into agreements with the landowning agency concerning use of the property consistent with the objectives of KRS 146.200 to 146.360. Nothing in KRS 146.200 to 146.360 shall be construed to deprive a landowner of the fee simple title to or lesser interest in his property without just compensation.

- (2) The secretary for energy and environment~~[environmental and public protection]~~ may not exercise authority to acquire lands or interests in lands located within any incorporated city, village, or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands in accordance with the provisions of KRS 146.200 to 146.360.

→ Section 129. KRS 146.310 is amended to read as follows:

All state agencies shall, promptly upon June 16, 1972, inform the secretary for energy and environment~~[environmental and public protection]~~ of any proceedings, studies, or other activities within their jurisdictions, and regardless of by whom requested, which are now in progress and which affect or may affect any of the streams specified in KRS 146.241. They shall likewise inform him of any such proceedings, studies or other activities which are hereafter commenced or resumed before they are commenced or resumed.

→ Section 130. KRS 146.320 is amended to read as follows:

Nothing in KRS 146.200 to 146.360 shall preclude a component of the Wild Rivers System from becoming a part of the National Wild and Scenic Rivers System. The secretary for energy and environment~~[environmental and public protection]~~ is directed to encourage and assist any federal studies for inclusion of Kentucky streams in the National Wild and Scenic Rivers System. The secretary for energy and environment~~[environmental and public protection]~~ may enter into written cooperative

1 agreements for joint federal-state or interstate administration of a Kentucky component of
 2 the National Wild and Scenic Rivers System, provided such agreements for the
 3 administration of water and land uses are not less restrictive than those set forth in KRS
 4 146.200 to 146.360.

5 ➔Section 131. KRS 146.330 is amended to read as follows:

6 The secretary for energy and environment~~[environmental and public protection]~~ may
 7 employ such technical, clerical, stenographic and other employees and assistants as are
 8 required to effectively carry out his duties and responsibilities as provided in KRS
 9 146.200 to 146.360.

10 ➔Section 132. KRS 146.340 is amended to read as follows:

11 A fund for the purpose of carrying out the provisions of KRS 146.200 to 146.360 is
 12 hereby created to be designated as a "Wild Rivers System Fund" to consist of all revenues
 13 derived from privileges, concessions, contracts, or otherwise, all moneys received by
 14 gifts, contributions, donations, and grants from public or private sources. Such "Wild
 15 Rivers System Fund" shall be disbursed by the Energy and Environment~~[Environmental
 16 and Public Protection]~~ Cabinet, after appropriations are made by law, for administration
 17 and other expenses and for other purposes provided by KRS 146.200 to 146.360.

18 ➔Section 133. KRS 146.415 is amended to read as follows:

19 As used in KRS 146.410 to 146.530:

- 20 (1) "Natural area" means any area of land or water, or of both land and water, in public
 21 or private ownership, which either retains, or has reestablished to some degree in
 22 the judgment of the commission its natural character, though it need not be
 23 completely natural and undisturbed, or which has natural flora, fauna, biological,
 24 ecological, geological, scenic or archaeological features of scientific, aesthetic,
 25 cultural or educational interest;
- 26 (2) "Natural preserve" means a natural area, and land necessary for its protection, any
 27 estate, interest or right in which has been formally dedicated under the provisions of

1 KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural
 2 condition and to be used in a manner and under limitations consistent with its
 3 continued preservation, without impairment, disturbance or artificial development,
 4 for the public purposes of present and future scientific research, education, aesthetic
 5 enjoyment and habitat for plant and animal species and other natural objects;

6 (3) "Articles of dedication" means the writing by which any estate, interest or right in a
 7 natural area is formally dedicated, as provided in KRS 146.410 to 146.530;

8 (4) "Commission" means the Kentucky State Nature Preserves Commission;

9 (5) "System" means the state system of nature preserves established under KRS
 10 146.410 to 146.530;

11 (6) "Cabinet" means the Energy and Environment~~Environmental and Public~~
 12 ~~Protection~~ Cabinet;

13 (7) "Director" means the director of the Kentucky State Nature Preserves Commission.

14 ➔Section 134. KRS 146.560 is amended to read as follows:

15 (1) There is hereby established a Kentucky Heritage Land Conservation Fund Board,
 16 referred to hereafter as "the board", which shall administer the Kentucky Heritage
 17 Land Conservation Fund established in KRS 146.570 and shall review and approve
 18 all grants payable from the fund. The board shall consist of the following members:

19 (a) The commissioner of the Department of Parks or a designee;

20 (b) The director of the Kentucky Nature Preserves Commission or a designee;

21 (c) The commissioner of the Department for Natural Resources or a designee;

22 (d) The commissioner of the Department of Fish and Wildlife Resources or a
 23 designee;

24 (e) The chairperson of the Kentucky Environmental Education Council or a
 25 designee;

26 (f) One (1) person appointed by the Governor, from two (2) persons nominated
 27 by the Kentucky Chapter of the Nature Conservancy;

- (g) One (1) person appointed by the Governor, from two (2) persons nominated by the League of Kentucky Sportsmen;
- (h) Two (2) persons appointed by the Governor, from four (4) persons recognized for their expertise in natural resource issues and nominated by the Kentucky Academy of Sciences;
- (i) One (1) person appointed by the Governor, from three (3) persons nominated, one (1) by the Kentucky Farm Bureau, one (1) by the Commissioner of the Department of Agriculture, and one (1) by the Kentucky Association of Conservation Districts;
- (j) One (1) person appointed by the Governor, from three (3) persons nominated, one (1) by the Kentucky Audubon Council, one (1) by the Cumberland Chapter of the Sierra Club, and one (1) by the Kentucky Conservation Committee; and
- (k) One (1) person appointed by the Governor with at least five (5) years of experience in natural resources land acquisition.

The board shall receive staff support from the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet and the Department of Fish and Wildlife Resources. Of the seven (7) members identified in paragraphs (f) to (k) of this subsection and first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, and three (3) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. The Governor shall appoint a chairperson for the board.

- (2) The board shall promulgate in accordance with the provisions of KRS Chapter 13A

1 administrative regulations as are deemed necessary for application for funds from
 2 the agencies identified in KRS 146.570, review and approval of proposed projects,
 3 and review and approval of grants. Grants shall be made in amounts, for purposes,
 4 and to the agencies identified in KRS 146.570 as meet the priorities for acquisition
 5 which are:

- 6 (a) Natural areas that possess unique features such as habitat for rare and
 7 endangered species;
- 8 (b) Areas important to migratory birds;
- 9 (c) Areas that perform important natural functions that are subject to alteration or
 10 loss; or
- 11 (d) Areas to be preserved in their natural state for public use, outdoor recreation
 12 and education.

13 The board shall promulgate administrative regulations in accordance with the
 14 provisions of KRS Chapter 13A on acquisition based on these priorities and
 15 property costs seeking to maximize the greatest public benefit by taking advantage
 16 of those priority areas available below fair market value and where public or private
 17 funds are available on a matching basis. The board shall expend the whole or any
 18 part of the principal and interest as needed. KRS 146.550 to 146.570 shall not allow
 19 the use of condemnation powers and shall only allow acquisition of land from
 20 willing sellers.

21 ➔Section 135. KRS 146.570 is amended to read as follows:

- 22 (1) There is hereby established in the State Treasury a fund entitled "Kentucky Heritage
 23 Land Conservation Fund." The fund shall primarily receive state appropriations,
 24 gifts, grants, federal funds, and tax receipts. The fund shall be disbursed by the State
 25 Treasurer upon the warrant of the secretary of the Finance and Administration
 26 Cabinet. Moneys in the fund not expended at the end of a fiscal year shall be carried
 27 forward to the next fiscal year, and the fund shall not lapse. Moneys in the fund

1 shall be invested in accordance with administrative regulations developed by the
 2 State Investment Commission in accordance with KRS 42.525. Interest earnings
 3 shall accrue to the fund.

4 (2) The fund shall be attached for administrative, budgeting, and capital planning and
 5 reporting purposes to the Energy and Environment~~Environmental and Public~~
 6 ~~Protection~~ Cabinet. Land acquisitions shall be authorized by the General Assembly
 7 and reported to the Capital Projects and Bond Oversight Committee in accordance
 8 with KRS 45.750 to 45.800. Allocation of moneys as approved by the board for
 9 management of the lands shall be appropriated to each separate agency as part of its
 10 operating budget.

11 (3) Moneys in the fund shall be used exclusively for the purposes of acquisition and
 12 management of lands as defined in KRS 146.560. Each recipient of moneys shall
 13 develop and implement a resource management plan for each tract acquired, except
 14 a resource management plan for properties adjacent to a state park shall be
 15 developed and managed by the Department of Parks, and shall allocate at least ten
 16 percent (10%) of moneys received for management of lands acquired. Lands
 17 acquired shall be maintained in perpetuity for the purposes set out in KRS 146.560.

18 (4) Moneys in the fund shall be allocated as follows:

- 19 (a) The Department of Parks shall receive ten percent (10%);
- 20 (b) The Department of Fish and Wildlife Resources shall receive ten percent
 21 (10%);
- 22 (c) The Energy and Environment~~Environmental and Public Protection~~ Cabinet,
 23 Division of Forestry, shall receive ten percent (10%);
- 24 (d) Ten percent (10%) shall be allocated for wild rivers corridors established by
 25 the Kentucky Wild Rivers Act, KRS 146.200 to 146.360, and any
 26 administrative regulations promulgated pursuant thereto;
- 27 (e) The Nature Preserves Commission shall receive ten percent (10%); and

(f) The board shall receive the remaining fifty percent (50%), for allocation to state agencies, local governments, and state colleges and universities.

→ Section 136. KRS 147A.031 is amended to read as follows:

(1) The Governor's Office for Local Development, in cooperation with cities, counties, waste management districts, waste industries, the Energy and Environment~~Environmental and Public Protection~~ Cabinet, and the Environmental Quality Commission, shall develop procedures designed to resolve conflicts resulting from municipal solid waste management facility siting and operation. The procedures shall address:

- (a) Resolution of conflicts associated with multijurisdictional municipal solid waste management facilities, including the use of such techniques as negotiation, mediation, or arbitration to address issues, including but not limited to host community compensation and collection and disposal fees; and
- (b) Resolution of issues, except those relating to permit conditions imposed by the cabinet, resulting from municipal solid waste management facility siting and operation, including the use of such techniques as negotiation, mediation, or arbitration to address concerns of those persons and landowners who are directly affected by the facility's location and operation. Issues which may be addressed include but are not limited to the following:

- 1. Operational issues, such as hours of operation;
- 2. Recycling and composting efforts that may be implemented;
- 3. Protection of property values;
- 4. Traffic routing and road maintenance; and
- 5. Establishment of local advisory committees.

(2) The Governor's Office for Local Development shall adopt administrative regulations to implement the provisions of subsection (1) of this section.

(3) Nothing in this section shall be construed to abridge any rights or remedies provided

1 by KRS Chapters 109 and 224, or at common law.

2 ➔Section 137. KRS 147A.200 is amended to read as follows:

3 (1) The Governor's Office for Local Development is authorized and directed to apply
4 for and receive federal funds to be placed in a state account called the gas system
5 restoration and development project account, and to provide staff to administer said
6 funds. The funds in this account may be used in any gas system restoration or
7 development project approved by the Gas System Restoration and Development
8 Project Account Review Board.

9 (2) A Gas System Restoration and Development Project Account Review Board is
10 established and shall consist of eight (8) members appointed by the Governor. The
11 board shall be chaired by the commissioner of the Governor's Office for Local
12 Development and shall include representatives of the Public Service Commission,
13 state fire ~~marshal~~~~Marshal's Office~~, Governor's Office for Local Development,
14 Kentucky Infrastructure Authority, banking and finance industry, commercial or
15 industrial consumers, Kentucky Gas Association, and low-income or minority group
16 consumers. Members shall be reimbursed for necessary expenses in attending
17 meetings.

18 (3) The review board shall meet as necessary and shall establish rules for conducting its
19 business. The review board shall consider applications for loans from the account
20 and approve or disapprove loan applications. No loan shall be considered unless the
21 applicant has complied with all construction and securities requirements of the
22 Public Service Commission. In reviewing loan applications, the review board may
23 request the testimony of the county judge/executive of an affected county and any
24 other witnesses deemed appropriate.

25 ➔Section 138. KRS 148.590 is amended to read as follows:

26 (1) There is created the Kentucky Sports Authority, which shall be attached to the
27 Tourism, Arts and Heritage Cabinet, Office of the Secretary, for administrative

1 purposes.

2 (2) The authority shall consist of fifteen (15) members, including the Lieutenant
3 Governor, the secretary of the Tourism, Arts and Heritage Cabinet, the secretary of
4 the ~~the Environmental and~~ Public Protection Cabinet, and twelve (12) members
5 appointed by the Governor. The members appointed by the Governor shall include
6 representatives of the Kentucky Horse Racing Commission~~Authority~~, the fish and
7 wildlife community, and the Kentucky Boxing and Wrestling ~~Authority~~.

8 (3) The Lieutenant Governor shall serve as chairperson of the ~~authority~~. Members shall
9 elect other officers as they deem necessary. Of the members initially appointed by
10 the Governor, one-third (1/3) shall serve a term of four (4) years, one-third (1/3)
11 shall serve a term of three (3) years, and one-third (1/3) shall serve a term of two (2)
12 years. All succeeding terms shall be for four (4) years.

13 (4) The secretary of the Tourism, Arts and Heritage Cabinet shall appoint an executive
14 director, with the prior written approval of the Governor, to head the authority. The
15 cabinet shall provide ~~additional administrative support to the authority from the~~
16 cabinet's existing staff as necessary.

17 (5) The authority shall meet monthly and at other times as necessary, upon the call of
18 the ~~chairperson~~. Members shall be reimbursed for expenses incurred in performing
19 the authority's duties, functions, and responsibilities.

20 (6) The authority's primary responsibility shall be to recruit, promote, assist, place, and
21 develop sporting events, facilities, attractions, and programs in the Commonwealth,
22 with the ultimate goal of developing commerce, the economy, job opportunities,
23 and revenue streams. The authority's duties shall include but not be limited to the
24 following:

25 (a) Lead efforts to attract national and regional sporting events to Kentucky by
26 working with the National Collegiate Athletic Association, the National
27 Association of Intercollegiate Athletics, the Professional Golf Association, the

1 National Football League, the National Basketball Association, the
2 Professional Bowlers Association, the Professional Tennis Tour, the National
3 Association for Stock Car Auto Racing, the United States Olympic
4 Committee, Bassmasters, and other nationally recognized organizations;

5 (b) Work toward establishing professional franchises in Kentucky, and develop an
6 overall strategic plan to recruit and retain all forms of professional and
7 amateur sporting events, including boxing, motor vehicle racing, baseball,
8 football, soccer, hockey, tennis, gymnastics, volleyball, and figure skating;

9 (c) Identify and propose improvements for sporting activity infrastructure,
10 including opportunities for private and public partnership on infrastructure
11 development; present for the Governor's approval any financial plan that
12 would require state tax dollars to build new athletic facilities; and upon the
13 Governor's approval of a proposed financial plan, present it to the General
14 Assembly;

15 (d) Foster relationships between sporting event organizers and event sponsors,
16 and between and among state agencies, and provide advice and direction for
17 increasing the number and quality of sporting events;

18 (e) Evaluate various sports and sports-related activities and entities, such as auto
19 racing, summer instructional camps for cheerleading, and sports agents, and
20 make written recommendations to the Governor and the General Assembly as
21 to whether additional regulation, licensing, or taxing are necessary;

22 (f) Attempt to involve renowned Kentucky athletes in the war against drugs and
23 the promotion of the Governor's Wellness Initiative;

24 (g) Work with Kentucky Educational Television and other media outlets to
25 establish and develop a twenty-four (24) hour television channel devoted to
26 promoting and highlighting healthy lifestyles, sports, and applicable
27 government programs, such as the state park system and the Department of

1 Fish and Wildlife Resources;

- 2 (h) Develop and recommend to the Governor, as necessary, legislation and
 3 administrative regulations to further the purposes of the authority, provide
 4 additional professional and amateur participation by Kentucky's citizens,
 5 provide adequate safety measures and ethical operations for sporting events,
 6 recruit and maintain professional and amateur sporting events, and address the
 7 fiscal and tax implications of the issues and activities of this section; and
- 8 (i) Assume all duties, functions, responsibilities, records, equipment, and staff of
 9 the Governor's Commission on Sports, Physical Activity, and Wellness
 10 established under KRS 11.190, and establish a council titled the Council on
 11 Sports, Physical Activity, and Wellness to implement these transferred
 12 statutory responsibilities.

13 ➔Section 139. KRS 148.795 is amended to read as follows:

14 (1) As used in this section:

- 15 (a) "Agreement" means a recreational land use agreement where at least one (1)
 16 party is a governmental entity as defined in this section;
- 17 (b) "Government" or "governmental entities" means any government entity of the
 18 Commonwealth, including state government agency, city, county, urban-
 19 county government, consolidated local government, unified local government,
 20 or charter county;
- 21 (c) "Land" means land, roads, water, watercourses, private ways and buildings,
 22 structures, and machinery when attached to the realty;
- 23 (d) "Owner" means a private individual, corporation, or government who
 24 possesses a fee interest in the land; and
- 25 (e) "Recreational purpose" includes but is not limited to any of the following, or
 26 any combination thereof: hunting, fishing, rock climbing, swimming, boating,
 27 camping, picnicking, hiking, bicycling, horseback riding, pleasure driving,

1 nature study, waterskiing, winter sports, all-terrain vehicle riding, and viewing
2 or enjoying historical, archaeological, scenic, or scientific sites.

3 (2) The Kentucky Recreational Trails Authority is hereby established and attached to
4 the Office of the Secretary, Tourism, Arts and Heritage Cabinet, for the purpose of
5 planning and implementing programs to expand tourism opportunities for off-road
6 activities that are pertinent to nonmotorized and motorized vehicle use, including
7 but not limited to pedestrians, bicycles, mountain bicycles, horses, all-terrain
8 vehicles (ATVs), and off-highway vehicles (OHVs), on designated lands in
9 Kentucky. Membership of the authority shall consist of the following:

10 (a) A chairman, selected from its members, to be designated by the Governor;

11 (b) Membership shall include the following members:

12 1. Two (2) representatives of the Kentucky Motorcycle Association, to be
13 appointed by the Governor from a list of five (5) nominees selected by
14 the association. The initial term of one (1) member shall expire one (1)
15 year after the date of appointment. The initial term of the other member
16 shall expire two (2) years after the date of appointment;

17 2. One (1) member of the League of Kentucky Sportsmen, appointed by the
18 Governor. The initial term of this member shall expire one (1) year after
19 the date of appointment;

20 3. One (1) member of the Kentucky Council of Area Development
21 Districts, appointed by the Governor. The initial term of this member
22 shall expire four (4) years after the date of appointment;

23 4. Two (2) members selected from ATV associations, with consideration
24 given to geographic diversity. The initial term of one (1) of these
25 members shall expire two (2) years after the date of appointment, and
26 the initial term of the other member shall expire three (3) years after the
27 date of appointment;

1 5. Two (2) members representing Kentucky Farm Bureau, with
 2 consideration to the eastern and western parts of the state. The initial
 3 term of one (1) member shall expire two (2) years after the date of
 4 appointment, and the initial term of the other member shall expire four
 5 (4) years after the date of appointment; and

6 6. Two (2) members representing the coal industry, with consideration to
 7 the eastern and western parts of the state. The initial term of one (1)
 8 member shall expire two (2) years after the date of appointment, and the
 9 initial term of the other member shall expire four (4) years after the date
 10 of appointment;

11 (c) Seven (7) additional members who shall be appointed by the Governor from
 12 the following groups:

13 1. One (1) member shall be chosen from a Kentucky bicycling organization
 14 that is affiliated with either the League of American Bicyclists, the
 15 United States Cycling Federation, or the International Mountain
 16 Bicycling Association. The initial term of this member shall expire three
 17 (3) years after the date of appointment;

18 2. One (1) member shall be from a Kentucky equine organization that has
 19 trail riding as its primary focus. The initial term of this member shall
 20 expire one (1) year after the date of appointment;

21 3. One (1) member shall be chosen from a state or national hiking or
 22 backpacking organization. The initial term of this member shall expire
 23 two (2) years after the date of appointment;

24 4. Two (2) members shall be chosen from five (5) persons nominated in
 25 writing by the Kentucky Horse Council. The initial term of one (1) of
 26 these members shall expire four (4) years after the date of appointment,
 27 and the initial term of the other member shall expire two (2) years after

1 the date of the appointment;

2 5. One (1) member shall be chosen by the Governor from the public at
3 large. The initial term of this member shall expire three (3) years after
4 the date of appointment; and

5 6. One (1) member shall be selected from among the county
6 judges/executive of the Commonwealth. The initial term of this member
7 shall expire two (2) years after the date of appointment;

8 (d) Additionally, the following shall serve as members by virtue of their official
9 positions:

10 1. The secretary of the Transportation Cabinet, or the secretary's designee;

11 2. The secretary of the Tourism, Arts and Heritage Cabinet, or the
12 secretary's designee;

13 3. The commissioner of the Department of Fish and Wildlife Resources, or
14 the commissioner's designee;

15 4. The secretary of the Justice and Public Safety Cabinet, or the secretary's
16 designee;

17 5. The secretary of the Energy and Environment~~Environmental and~~
18 ~~Public Protection~~ Cabinet, or the secretary's designee; and

19 6. The Commissioner of the Department of Agriculture, or the
20 Commissioner's designee; and

21 (e) Upon the expiration of the terms of the initial members described in
22 paragraphs (b) and (c) of this subsection, the Governor shall appoint thirteen
23 (13) members of the public in such a manner as to ensure equal representation
24 of motorized and nonmotorized use of trails and in accordance with the
25 requirements of paragraphs (b) and (c) of this subsection. Any vacancy on the
26 authority shall be filled by the Governor for the unexpired term.

27 (3) (a) Each appointed member shall serve for a term of four (4) years. Sitting

1 members shall be eligible to succeed themselves.

2 (b) Any member may be removed from his or her appointment by the Governor
3 for cause.

4 (c) Appointed members shall be reimbursed for travel costs incurred in attending
5 meetings, which shall be paid from the funds of the Kentucky Department of
6 Travel and in compliance with the Tourism, Arts and Heritage Cabinet's
7 procedures for travel and reimbursement.

8 (4) (a) The chairman shall set the agenda, place, and time of meetings, which shall be
9 held a minimum of two (2) times per year and conducted in accordance with
10 the Open Meetings Act, KRS 61.805 to 61.850.

11 (b) A quorum for all meetings shall consist of seven (7) of the members.

12 (c) The chairman shall be a nonvoting member, except in cases of a tie vote, in
13 which case, the chairman may cast the deciding vote.

14 (5) (a) An agreement as defined in subsection (1) of this section may be entered into
15 by any owner or owners and any governmental entities as defined in
16 subsection (1)(b) of this section.

17 (b) The agreement shall be a contractual arrangement that authorizes the public to
18 utilize the owner's land for a recreational purpose. The allowable recreational
19 purpose or purposes may include but are not limited to all-terrain vehicle
20 riding, public hunting, nature conservation, biking, rock climbing, hiking, and
21 horseback trail riding and may be limited in scope by the terms of the
22 agreement.

23 (c) The agreement may specify that the governmental entity or entities may be
24 responsible for the maintenance and upkeep of the land.

25 (d) The provisions of KRS 411.190 shall apply to public use of lands for
26 recreational purposes authorized under an agreement entered into pursuant to
27 this section.

- 1 (e) Unless otherwise agreed by the parties, the agreement may be terminated by
2 either party at any time for any reason if thirty (30) days' notice is given.
- 3 (6) An agreement executed pursuant to this section, or the use of land under an
4 agreement created pursuant to this section, shall not:
- 5 (a) Create in any user any interest in the property;
6 (b) Ripen into a claim of adverse possession;
7 (c) Alter the land or status of the land to make it unsuitable for mining pursuant to
8 KRS 350.610; or
9 (d) Cause a denial of a mining permit pursuant to KRS 350.085 or other statutes
10 or regulations of the Commonwealth of Kentucky or any political subdivision
11 thereof.
- 12 (7) In accordance with the purpose and limitations specified in this section, the
13 governmental entities may:
- 14 (a) Construct, develop, manage, maintain, operate, improve, renovate, finance, or
15 otherwise provide for recreational activities and facilities on designated public
16 lands and private lands where owners have voluntarily entered into use
17 agreements with the authority or government; and
18 (b) Charge for a general use permit to access the lands for off-road activities as
19 described in subsection (5) of this section that shall be valid for not less than
20 thirty (30) days.
- 21 (8) The Kentucky Recreational Trails Authority may accept, acquire, dispose of, or
22 hold real or personal property, and any interest therein, by deed, grant, loan, gift,
23 devise, bequest, lease, license, easement, or transfer from any state or federal
24 government agency, or from any person, corporation, or other entity, for the purpose
25 of public use.
- 26 (9) All proceeds derived from the sale of a general use permit pursuant to subsection
27 (7)(b) of this section, or any proceeds derived from property identified in subsection

(8) of this section, shall be paid to the State Treasurer, who shall deposit the proceeds in a revolving fund to carry out the purposes of this chapter. The fund shall be administered by the Tourism, Arts and Heritage Cabinet. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section.

(10) The Tourism, Arts and Heritage Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A in order to carry out the provisions of this section.

→Section 140. KRS 148.876 is amended to read as follows:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the Energy and Environment~~Environmental and Public Protection~~ Cabinet, Division of Mine Permits or Office of Mine Safety and Licensing.

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot

1 restriction contained in KRS 350.085(3) and boundary restrictions for a well set
2 forth in KRS 353.610.

3 ➔Section 141. KRS 149.010 is amended to read as follows:

4 (1) There is hereby created and there shall be maintained within the Department for
5 Natural Resources in the Energy and Environment~~Environmental and Public~~
6 ~~Protection~~] Cabinet a Division of Forestry to supervise all forestry property and
7 advance forest interests of the state through development of such property and
8 interests. It shall initiate such projects as will promote public appreciation of forest
9 protection and of reforestation; encourage tree planting in general and on the public
10 highways in particular; grow, collect and distribute seedlings; form and foster junior
11 forestry clubs; cooperate with local civic organizations in the care of trees and
12 planting of more trees; provide for organized forest fire protection; cooperate with
13 the federal government, state departments and landowners in the perpetuation of
14 forests, the promotion of tree growth and the redemption of wasteland for
15 agricultural purposes; and encourage an interest in forestry by correspondence,
16 press, pamphlets, reports, moving pictures and organizations.

17 (2) The director of the Division of Forestry with the approval of the secretary for
18 energy and environment~~environmental and public protection~~] shall adopt and
19 enforce such rules and regulations as may be necessary to carry out the functions
20 assigned the cabinet by law.

21 ➔Section 142. KRS 149.015 is amended to read as follows:

22 There shall be established and maintained within the nursery or nurseries of the Energy
23 and Environment~~Environmental and Public Protection~~] Cabinet a section or sections for
24 the propagation of blight resistant chestnut tree seedlings. Such seedlings shall be
25 distributed to landowners and citizens of the Commonwealth at reasonable cost and under
26 and subject to such rules and regulations as may be established by the secretary for
27 environmental and public protection.

➔Section 143. KRS 149.020 is amended to read as follows:

- (1) The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet may receive by donation, purchase, or lease lands for forestry purposes, and may convey, exchange, or lease said lands and may sell timber or other forest products thereon. In exercising this function the cabinet shall be exempted from any provision of KRS 45.301 or 45A.045, except with respect to the purchase, conveyance, exchange, or inventory of lands.
- (2) No land shall be purchased, leased, or received as a donation unless the title thereto is merchantable and has been approved by the Attorney General.

➔Section 144. KRS 149.030 is amended to read as follows:

The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet may establish forest reserves in places where the land is suitable for the growth of timber and for the propagation of wild animal life. It may lease lands suitable for the purpose of growing timber and adapted to the propagation of game and wild animals. Such leases shall be for a term of not less than twenty (20) nor more than one hundred (100) years, and the rental shall not exceed the amount of state, county and school taxes on the property. The rentals shall be paid not later than December 31 in each year, out of funds accruing to the **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet. All taxes shall be paid by the owners of the property prior to or at the time the rentals are paid by the **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet.

➔Section 145. KRS 149.040 is amended to read as follows:

- (1) The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet has complete control over all property acquired or leased by it. It may post all forest reserves and may eject all trespassers from property under its control.
- (2) No person shall injure any property under its control, or interfere in any manner with the management and supervision of the property.
- (3) No person shall acquire title by adverse possession to any property under control of

1 the cabinet.

2 (4) The cabinet may cooperate with any department of the state or the federal
3 government, for the purpose of protecting and propagating fish and game.

4 ➔Section 146. KRS 149.060 is amended to read as follows:

5 If merchantable timber is taken from land leased to the Energy and
6 Environment~~[Environmental and Public Protection]~~ Cabinet, one-half (1/2) of the
7 stumpage value of the timber shall be paid into the State Treasury and the other half (1/2)
8 shall be paid to the lessor or his assigns. The sale of timber grown upon leased lands shall
9 be made only by consent of all parties interested in the land or by court order. If all
10 interested parties do not agree to sell the timber, the cabinet may, by a suit in equity, to
11 which all persons interested shall be made parties, obtain an order directing the cabinet to
12 sell merchantable timber on any leased lands.

13 ➔Section 147. KRS 149.070 is amended to read as follows:

14 When any action is instituted in behalf of the Energy and Environment~~[Environmental~~
15 ~~and Public Protection]~~ Cabinet, the county and Commonwealth's attorney shall represent
16 it in the county in which the action is brought. The Attorney General shall have
17 supervisory authority over all actions instituted for or against the cabinet.

18 ➔Section 148. KRS 149.080 is amended to read as follows:

19 Forest wardens employed by the Energy and Environment~~[Environmental and Public~~
20 ~~Protection]~~ Cabinet, shall assist in preventing, controlling and extinguishing forest fires,
21 under direction of the cabinet. A forest warden must be a full-time employee of the
22 Energy and Environment~~[Environmental and Public Protection]~~ Cabinet who has been
23 appointed by the secretary. A deputy forest warden can be a full-time or part-time
24 employee of the cabinet or a non-employee who has been appointed by the secretary to
25 have the same rights and privileges of a forest warden except the issuing of citations or
26 arrests for violations of this chapter or collection of suppression costs.

27 ➔Section 149. KRS 149.083 is amended to read as follows:

1 No person shall resist, obstruct, interfere with or threaten, or attempt to intimidate, or in
 2 any other manner interfere with any officer or employee of the Energy and
 3 Environment~~[Environmental and Public Protection]~~ Cabinet in the discharge of his
 4 duties under the provisions of KRS Chapter 149.

5 ➔Section 150. KRS 149.087 is amended to read as follows:

6 (1) The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet may
 7 secure such automobile liability insurance as will reasonably protect the interest of
 8 employees of the cabinet, particularly those employees driving trucks or heavy
 9 equipment in the conduct of official business.

10 (2) Policies authorized by this section shall be purchased only in accordance with
 11 regulations prescribed by the commissioner~~[executive director]~~ of insurance and the
 12 secretary of the Finance and Administration Cabinet.

13 ➔Section 151. KRS 149.090 is amended to read as follows:

14 (1) A forest warden, for violation of laws for the protection of the forest of the state,
 15 has the following arrest powers:

16 (a) With a warrant;

17 (b) Without a warrant any person he observes committing a misdemeanor or a
 18 felony; and

19 (c) Without a warrant when he has reasonable grounds to believe that the person
 20 being arrested has committed a felony. No action for trespass shall lie against
 21 any forest warden, or person summoned by him, for crossing or working upon
 22 lands of another in connection with his duties as forest warden.

23 (2) A forest warden may summon any resident of the state over eighteen (18) years of
 24 age who is physically able to assist in extinguishing forest fires. Inability or failure
 25 to pay such persons does not bar the authority of the warden to summon them.

26 (3) A forest warden may require the use of horses, automobiles, tools and other
 27 equipment needed in extinguishing fires. Owners of said required equipment and

1 materials shall receive reasonable compensation therefor, as determined by the
 2 forest warden. In case of disagreement upon the terms of compensation, the dispute
 3 shall be referred to the secretary for energy and environment,~~environmental and~~
 4 ~~public protection~~ who shall make the final decision.

5 ➔Section 152. KRS 149.097 is amended to read as follows:

6 The secretary for energy and environment~~environmental and public protection~~ may
 7 offer rewards out of moneys, appropriated to the Energy and
 8 Environment~~Environmental and Public Protection~~ Cabinet, for information leading to
 9 the apprehension and conviction of persons violating the laws relating to the setting of
 10 fires and forest fire control.

11 ➔Section 153. KRS 149.160 is amended to read as follows:

12 When the Energy and Environment~~Environmental and Public Protection~~ Cabinet
 13 determines that a danger of forest fire exists in a county in which the statewide system of
 14 forest fire protection has been established under KRS 149.510 to 149.600, the cabinet
 15 shall respond to the forest fire danger and employ those persons and means as, in its
 16 judgment, are expedient and necessary to respond to the forest fire danger or to extinguish
 17 the fire, within the limits of the expense that it has been authorized to incur in its
 18 instructions from the secretary for energy and environment~~environmental and public~~
 19 ~~protection~~. The cabinet shall keep an itemized account of all expenses thus incurred and
 20 immediately send the account verified by affidavit to the secretary for energy and
 21 environment~~environmental and public protection~~ for examination. Upon approval by
 22 the secretary for energy and environment~~environmental and public protection~~, the
 23 account shall be paid from such fund or funds as are available to the cabinet for such
 24 purpose. No such payment shall be made to any person who has intentionally started the
 25 fire or to any person whose negligence caused or contributed to the setting of the fire.

26 ➔Section 154. KRS 149.170 is amended to read as follows:

27 No action for trespass shall lie against the secretary for energy and

1 environment~~[environmental and public protection]~~, or any agent or employee of the
 2 Energy and Environment~~[Environmental and Public Protection]~~ Cabinet, or any forest
 3 warden on account of lawful acts done in legal performance of their duties.

4 ➔ Section 155. KRS 149.180 is amended to read as follows:

5 Whenever possible, the secretary for energy and environment~~[environmental and public
 6 protection]~~ shall collect the costs of firefighting done and approved as provided in KRS
 7 149.160, from the person responsible for the origin of the fire by his negligence or intent.

8 The recovered costs shall be deposited in a special fund in the Energy and
 9 Environment~~[Environmental and Public Protection]~~ Cabinet. The recovered costs shall
 10 be repaid to the county in which the costs were incurred, if such county has fully paid its
 11 annual assessment to the statewide system as provided for in KRS 149.540 for the year in
 12 which the fire suppression costs were incurred. If a county is not eligible to receive the
 13 recovered costs, the money shall be used by the Division of Forestry to improve fire
 14 protection services. The funds so repaid to the county shall be placed in the county forest
 15 fire protection fund provided for in KRS 149.590. Any money in the Energy and
 16 Environment~~[Environmental and Public Protection]~~ Cabinet's, or its predecessor's,
 17 special fund upon July 15, 1998, that were not repaid to a county for having failed to fully
 18 pay its annual assessment, shall be used by the Division of Forestry to improve fire
 19 protection services. In the event the suppression cost is not collected, the
 20 Commonwealth's attorney of the county in which the fire occurred shall institute and
 21 prosecute the necessary proceedings. Costs recovered under this section shall be ordered
 22 to be paid directly to the Energy and Environment~~[Environmental and Public Protection]~~
 23 Cabinet. The court shall not direct that the costs be paid through the circuit clerk.

24 ➔ Section 156. KRS 149.280 is amended to read as follows:

25 (1) The secretary for energy and environment~~[environmental and public protection]~~, or
 26 his authorized agent, may, upon request, and whenever he deems it essential to the
 27 best interests of the people of the Commonwealth, cooperate with counties, cities,

corporations, institutions or individuals in preparing plans for the protection, management and replacement of trees, woodlands and timber tracts, under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. Services rendered under this cooperative plan may include the designation of trees for sale or removal, measuring or estimating the commercial volume contained in the trees designated, marketing advice, and general forestry advice concerning the management of the landowner's forest.

- (2) When services are rendered under this section, the landowner or his agent, upon presentation of a statement, shall pay to the Energy and Environment~~Environmental and Public Protection~~ Cabinet, within thirty (30) days of receipt of the statement, the amount due. The amounts so collected by the Energy and Environment~~Environmental and Public Protection~~ Cabinet shall be paid into the State Treasury and shall be credited to a special fund for forest management and marketing, and, with such other funds as may be appropriated by the General Assembly, or contributed by the United States or any governmental or private agency for such purposes, shall be used and disbursed by the Energy and Environment~~Environmental and Public Protection~~ Cabinet for such purpose.

→ Section 157. KRS 149.325 is amended to read as follows:

The secretary for energy and environment~~environmental and public protection~~ shall be the compact administrator representing the Commonwealth of Kentucky as provided for in Article III of the compact approved by KRS 149.310. The Energy and Environment~~Environmental and Public Protection~~ Cabinet is hereby authorized to do any and all things required to make effective the provisions of the compact.

→ Section 158. KRS 149.330 is amended to read as follows:

As used in KRS 149.330 to 149.355, unless the context requires otherwise:

- (1) "Best management practices" means effective, practical, economical, structural, or

1 nonstructural methods that prevent or reduce the movement of sediment, nutrients,
 2 pesticides, and other pollutants from the land to surface or groundwater, or that
 3 otherwise protect water quality from potential adverse effects of timber harvesting
 4 operations as developed by the Division of Forestry and approved by the
 5 Agriculture Water Quality Authority;

6 (2) "Cabinet" means the Energy and Environment~~Environmental and Public~~
 7 ~~Protection~~ Cabinet;

8 (3) "Director" means the director of the Division of Forestry;

9 (4) "Division" means the Division of Forestry;

10 (5) "Logger" means any person who conducts timber harvesting operations for
 11 commercial purposes;

12 (6) "Operator" means any person who operates or exercises control over any timber
 13 harvesting operations;

14 (7) "Person" means any individual, partnership, corporation, association, society, joint
 15 stock company, firm, company, or business organization, and any agency or
 16 instrumentality of federal, state, or local government, including any publicly-owned
 17 utility or any publicly-owned corporation of federal, state, or local government;

18 (8) "Timber harvesting operations" means activities directly related to the cutting or
 19 removal of trees from the forest as a raw material for commercial processes or
 20 purposes, including timber preharvesting and postharvesting activities associated
 21 with the implementation of appropriate best management practices. "Timber
 22 harvesting operations" does not include:

23 (a) The cutting of firewood;

24 (b) The cutting of evergreens grown for and cut for the traditional Christmas
 25 holiday season;

26 (c) The removal of trees incidental to clearing for coal mining or farm purposes or
 27 incidental to ground-disturbing construction activities, including well sites,

1 and access roads and gathering lines for oil and natural gas operations;

2 (d) The cutting of trees for maintaining existing, or during construction of, rights-
3 of-way for public highways or public utilities, unless those trees are being sold
4 or provided as raw material for commercial wood product purposes; or

5 (e) The cutting of trees by an individual, nonindustrial landowner on his own
6 property, if the cutting is performed by the individual, nonindustrial
7 landowner; and

8 (9) "Water pollution" has the same meaning as in KRS 224.01-010.

9 ➔Section 159. KRS 149.365 is amended to read as follows:

10 As used in KRS 149.360 to 149.430 and 149.991, unless the context requires otherwise:

11 (1) "Secretary" means the secretary for energy and environment~~environmental and~~
12 ~~public protection~~].

13 (2) "Cabinet" means the Energy and Environment~~Environmental and Public~~
14 ~~Protection~~] Cabinet.

15 (3) "Person" means an individual, corporation, partnership, association, municipality,
16 state and federal government, or other public body or other legal entity, or any
17 officer, employee or agent of any of the foregoing.

18 (4) "Timberland" means any land which has enough timber or woody brush, standing or
19 down, to constitute a fire menace to itself or adjoining lands, but does not include
20 lands under cultivation or entirely in grass, nor land that is an isolated fire risk
21 unless a fire on it would imperil the lands of an adjoining landowner.

22 (5) "Flammable material" shall include but is not limited to refuse, debris, waste forest
23 material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, slash,
24 and grain.

25 ➔Section 160. KRS 149.370 is amended to read as follows:

26 No person shall:

27 (1) Within or adjacent to timberland, dispose of a lighted match, cigarette, cigar, ashes,

1 or other flaming or glowing substance, or any other substance or thing in such
 2 condition that it is likely to ignite a forest, brush, grass, or woods fire, or throw or
 3 drop any of the aforesaid objects or substances from a moving vehicle or drop or
 4 leave any of the aforesaid objects or substances within the limits of the right-of-way
 5 of any road or highway in such timberland. The driver of a moving vehicle shall be
 6 deemed prima facie liable where it cannot be determined which of the occupants of
 7 the moving vehicle threw or dropped any of the aforesaid objects or substances.

8 (2) Smoke in timberland during an emergency period of fire danger as proclaimed in
 9 KRS 149.405.

10 (3) Within or adjacent to timberland, set a backfire or cause a backfire to be set, except
 11 under the direct supervision of the Energy and Environment~~Environmental and~~
 12 ~~Public Protection~~ Cabinet, or unless it can be established that the setting of such
 13 backfire is necessary for the purpose of saving life or valuable property.

14 (4) Without authority, destroy, deface, or remove any notice, sign, or poster of the
 15 Energy and Environment~~Environmental and Public Protection~~ Cabinet, posted
 16 for the better protection of wood lots, forests, or wild lands from fire or trespass.

17 (5) Use or operate within or adjacent to timberland a welding torch, tarpot, or other
 18 device which may cause a fire, without clearing flammable material surrounding the
 19 operation or without taking such other reasonable precautions necessary to ensure
 20 against the starting and spreading of fire.

21 (6) Discharge or cause to be discharged a gun firing incendiary or tracer bullets or
 22 tracer charge or combustible gun wadding onto or across any timberland.

23 (7) Have in his possession on timberland any incendiary or tracer bullet or tracer
 24 charge, except in the course of transporting the same in conformity with law.

25 (8) In or adjacent to timberland, set fire or direct another to set fire to any flammable
 26 material for debris removal, cooking, heating, or to provide light without first
 27 obtaining permission from the landowner and taking necessary precautions to

1 prevent the fire from spreading to adjacent lands. All burning materials shall be
2 attended until extinguished.

3 ➔Section 161. KRS 149.405 is amended to read as follows:

4 (1) It shall be unlawful, when the forest lands, brush lands and fields in this state or any
5 part thereof have become so dry or parched as to create an extraordinary fire hazard
6 endangering lives and property, for any person, except the owner, tenant or owner's
7 authorized agent, persons regularly engaged in cutting, processing, or moving forest
8 products, persons engaged in constructing, maintaining, and operating utility or
9 pipeline rights-of-way, or persons on official duty, to enter or travel in any state,
10 county, municipal or private forest lands, brush lands, fields or idle or abandoned
11 lands in the area so affected except on public highways or well defined private
12 roads.

13 (2) When such an emergency is found to exist by the secretary for energy and
14 environment~~environmental and public protection~~, the Governor may proclaim
15 such a condition to exist in the Commonwealth or any described part thereof. The
16 provisions of subsection (1) shall be effective only during the time such
17 proclamation is in force and only in the area where such emergency is declared to
18 exist.

19 (3) The Secretary of State shall cause notice of such proclamation or any amendments
20 or rescission thereof to be published in a newspaper or newspapers of general
21 circulation in the area affected.

22 ➔Section 162. KRS 149.415 is amended to read as follows:

23 The Energy and Environment~~Environmental and Public Protection~~ Cabinet shall
24 administer KRS 149.360 to 149.430 and shall have power to issue, amend and revise such
25 rules and regulations as may be authorized hereby or as may reasonably be necessary to
26 implement the same. The cabinet is authorized to make, conduct or participate in any
27 investigations and surveys designed to establish the cause of and responsibility for a

particular forest fire or forest fire conditions generally and to cooperate with any and all law enforcement officers of or in this state in the apprehension and prosecution of persons violating this law. Nothing contained in KRS 149.360 to 149.430 shall be construed to limit or otherwise impair the jurisdiction or powers of any other department, agency or officer of or in this state to investigate, apprehend, prosecute or punish violations of law.

→Section 163. KRS 149.430 is amended to read as follows:

(1) If any forest fire shall originate as a result of the violation by any person of any provision of KRS 149.360 to 149.430, such person shall be, in addition to the penalty prescribed under KRS 149.991, liable to the state and to each county for the full amount of all expenses incurred by the state and county respectively in suppressing each fire, such amounts to be recoverable by action brought by the secretary for energy and environment~~environmental and public protection~~ in the name of the Commonwealth on behalf of the Commonwealth and by the county attorney on behalf of the county.

(2) In addition to any penalty pursuant to KRS 149.991, any person violating any of the provisions of KRS 149.360 to 149.430 shall be answerable in damages to any persons suffering such damage for the cost incurred in the suppression of any fire resulting from such violation and for damage to property resulting from such fires.

(3) Damages assessed under this section shall be ordered to be paid directly to the Energy and Environment~~Environmental and Public Protection~~ Cabinet or to any other injured person or organization specified by written order of the court. The court shall not direct that the damages be paid through the circuit clerk.

→Section 164. KRS 149.510 is amended to read as follows:

As used in KRS 149.510 to 149.600, unless the context requires otherwise:

(1) "Secretary" means the secretary for energy and environment~~environmental and public protection~~;

(2) "Cabinet" means the Energy and Environment~~Environmental and Public~~

1 ~~Protection~~ Cabinet;

- 2 (3) "Timberland" means any land which has enough timber or woody brush, standing or
3 down, to constitute a fire menace to itself or adjoining lands, but does not include
4 lands under cultivation or entirely in grass, nor land that is an isolated fire risk
5 unless a fire on it would imperil the lands of an adjoining landowner.

6 ➔Section 165. KRS 149.520 is amended to read as follows:

- 7 (1) It shall be the duty of the cabinet to establish and maintain a statewide system of
8 forest fire prevention, detection and suppression.

- 9 (2) The cabinet shall formulate a plan and program subject to the approval of the
10 secretary for energy and environment~~[environmental and public protection]~~ to
11 extend forest fire protection to all counties not now participating in the state
12 program. The plan shall provide for the establishment of such protection in all the
13 counties of the state on or before January 1, 1964.

14 ➔Section 166. KRS 149.600 is amended to read as follows:

- 15 (1) Any person aggrieved by a listing of any portion of his property as timberland by
16 the property valuation administrator may file a protest with the county
17 judge/executive, provided the protest is in writing and is made within thirty (30)
18 days of receipt of notice of the listing. Protest may be made on the ground that the
19 land or any portion so listed is not timberland, or that the timberland so listed will
20 not be benefited by the forest fire protective system then in effect, or benefited by
21 the proposed forest fire protective system if the assessment is being made for the
22 first time in that county.

- 23 (2) The county judge/executive shall hear all protests properly filed. Protests shall be
24 heard within a reasonable time after the filing thereof, and reasonable notice shall
25 be given to the protestant and the secretary for energy and
26 environment~~[environmental and public protection]~~ as to the time and place of the
27 hearing. The county judge/executive shall have authority to issue subpoenas to

1 compel the attendance of any witness desired by any interested party, and he shall
2 be authorized to administer the oath to any witness.

3 (3) Proceedings for hearing any protest shall be summary and the findings of the county
4 judge/executive shall be final, and an order shall be entered either dismissing the
5 protest or directing the proper county officials to alter their records in accordance
6 with the findings.

7 ➔Section 167. KRS 149.610 is amended to read as follows:

8 The purpose of KRS 149.610 to 149.680 is to place in the Energy and
9 Environment~~[Environmental and Public Protection]~~ Cabinet, the authority and
10 responsibility to control infestations or infections by insects or disease, which are hereby
11 declared to be a public nuisance, in order to protect and preserve forest resources,
12 enhance the growth and maintenance of forests, promote stability of forest-using
13 industries, aid in fire control by reducing the menace created by dying and dead trees,
14 conserve forest cover on watersheds, and protect recreational, wildlife and other values of
15 the forests of the Commonwealth.

16 ➔Section 168. KRS 149.620 is amended to read as follows:

17 The secretary for energy and environment~~[environmental and public protection]~~ shall
18 make surveys and investigations to determine the threat or presence of infestations and
19 control of forest pests. For this purpose duly designated representatives of the secretary
20 may enter at reasonable times on public and private lands for the purpose of conducting
21 such surveys, investigations and controls.

22 ➔Section 169. KRS 149.630 is amended to read as follows:

23 Whenever the secretary for energy and environment~~[environmental and public~~
24 ~~protection]~~ finds that any forest area is infested, threatened to be infested, infected, or
25 threatened to be infected with insects or disease, he shall determine whether measures of
26 control are needed and are available and the area over which the control measures shall be
27 applied. He shall prescribe the proposed zone in which control measures are to be

1 applied, and shall publish notice of the proposal, as required by law. Such notice shall
 2 include a brief description of the location of the proposed zone of infestation or infection
 3 and the approximate time when control measures will be executed.

4 ➔Section 170. KRS 149.640 is amended to read as follows:

5 The secretary for energy and environment~~environmental and public protection~~ may
 6 apply measures of infestation and infection control on public and private forests and other
 7 lands anywhere in the Commonwealth, to any trees, timber, plants or shrubs thereon
 8 harboring or which may harbor any insects or disease. The secretary may enter into
 9 agreements with owners of such lands covering the control work on their lands, and fix
 10 the pro rata basis on which the cost of such work will be shared between the
 11 Commonwealth and said owner; provided, that the failure of the secretary to offer an
 12 agreement to or execute an agreement with any owner shall not impair the right of the
 13 secretary's representatives to enter on the lands of said owner to conduct control
 14 operations.

15 ➔Section 171. KRS 149.650 is amended to read as follows:

16 The secretary for energy and environment~~environmental and public protection~~ is
 17 authorized to carry out control work on other adjacent or interior holdings, which, if
 18 uncontrolled, would cause a reinfestation or reinfection of the controlled area, and to
 19 contract with owners of land in the affected area relative to payment of the cost of such
 20 work.

21 ➔Section 172. KRS 149.660 is amended to read as follows:

22 The secretary for energy and environment~~environmental and public protection~~ may
 23 cooperate with the federal government or agencies thereof, other agencies of the
 24 Commonwealth, county or municipal governments, agencies of neighboring states, or
 25 other public or private organizations, or individuals and may accept such funds,
 26 equipment, supplies or services from cooperators and others as may be deemed
 27 appropriate. The secretary may provide in agreements with the federal government or its

1 agencies for matching of federal funds as required under federal laws relating to forest
2 pests.

3 ➔Section 173. KRS 149.670 is amended to read as follows:

4 All moneys collected under the provisions of KRS 149.610 to 149.680, including such as
5 may be contributed or paid by the federal government or any other public or private
6 agency, organization or individual, shall be placed in the State Treasury to the credit of a
7 revolving trust or agency fund account for use by the Energy and
8 Environment~~Environmental and Public Protection~~ Cabinet in carrying out the purposes
9 of KRS 149.610 to 149.680.

10 ➔Section 174. KRS 149.680 is amended to read as follows:

11 The secretary for energy and environment~~environmental and public protection~~ is
12 authorized as required by law, to employ necessary personnel, procure necessary
13 equipment, supplies and services; to enter into contracts in the name of the secretary and
14 to provide funds to any agency of the United States for work or services under the forest
15 pest control program. The secretary for energy and environment~~environmental and~~
16 ~~public protection~~ may prescribe rules and regulations for carrying out the purposes of
17 KRS 149.610 to 149.680.

18 ➔Section 175. KRS 150.175 is amended to read as follows:

19 The kinds of licenses and tags authorized by this chapter, and the acts authorized to be
20 performed under the licenses and tags, subject to the other provisions of this chapter and
21 subject to administrative regulations promulgated under this chapter, shall be as follows:

22 (1) Statewide resident sport fishing license, which authorizes the holder to take fishes
23 by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the
24 use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing,
25 gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and
26 turtles from any waters in any county of this state open for such purposes and
27 subject to the limitations in this chapter and additional limitations that the

- 1 department may from time to time prescribe. This license shall not authorize the
 2 holder to sell fish;
- 3 (2) A short-term sport fishing license, which authorizes the holder to perform all acts
 4 authorized by a statewide sport fishing license and subject to the same limitations or
 5 prescribed administrative regulations. This license shall not authorize the holder to
 6 sell fish;
- 7 (3) A resident commercial fishing license and a nonresident commercial fishing license,
 8 which authorize a holder to perform any act authorized by a sport fishing license
 9 and to take rough fishes from the waters of the state by the use of commercial
 10 fishing gear as prescribed by administrative regulation. The license shall also
 11 authorize the holder to sell rough fishes, other than those protected by
 12 administrative regulation;
- 13 (4) A commercial fishing gear tag, which shall be attached to each piece of commercial
 14 fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one
 15 hundred (100) feet of linear gear or portion thereof in use, including commercial
 16 seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a
 17 person holding a resident or nonresident commercial fishing license;
- 18 (5) Live fish and bait dealer's licenses, resident and nonresident, which authorize the
 19 holder to sell bait and live fish as may be prescribed by administrative regulation;
- 20 (6) Musseling licenses, resident and nonresident, which authorize the holder to take
 21 mussels for commercial purposes as may be prescribed by administrative regulation;
- 22 (7) A statewide resident hunting license, which authorizes the holder to take or pursue
 23 wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon,
 24 or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes
 25 with dogs for sport, according to the provisions of the laws and administrative
 26 regulations of the department;
- 27 (8) A junior statewide hunting license, which may be issued to a person before he or

1 she has reached his or her sixteenth birthday, and which authorizes the holder to
2 exercise all the privileges authorized by a statewide hunting license. No junior
3 hunting license shall be issued without the written permission of parent, guardian,
4 or person having custody of the person under sixteen (16) years of age;

5 (9) Trapping licenses, resident and nonresident, which authorize the holder to take wild
6 animals by trapping upon his or her own lands or upon the lands of another person,
7 if the holder of the license has first obtained oral or written consent as provided in
8 KRS 150.092 and administrative regulation;

9 (10) Taxidermist licenses, commercial and noncommercial, which authorize the holder
10 to engage in the act of preparing, stuffing, and mounting the skins of wildlife;

11 (11) A commercial guide's license, which authorizes the holder to guide hunting and
12 fishing parties according to the provisions of the laws and administrative
13 regulations of the department;

14 (12) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy
15 raw furs from licensed trappers and hunters and to sell raw furs so purchased.
16 Applicants for the license shall state the number of premises to be used and shall
17 display at each a copy of the license as furnished by the department, except that the
18 commissioner may limit the number of copies furnished and may revoke the license
19 for violation;

20 (13) A fur processor's license, which may be issued only to a resident, a partnership,
21 firm, or corporation of this state and which authorizes the holder to buy raw furs
22 when in legal possession for processing, manufacture, or retention in cold storage or
23 for resale;

24 (14) A nonresident sport fishing license, which authorizes the holder to perform any act
25 authorized by a resident statewide sport fishing license. This license shall not
26 authorize the holder to sell fish;

27 (15) A nonresident annual hunting license, which authorizes the holder to perform any

1 act authorized by a resident statewide hunting license;

2 (16) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a
3 permit holder to conduct a shoot-to-retrieve field trial on private or government-
4 owned lands. With a four (4) day permit, all participants, whether residents or
5 nonresidents, shall not be required to possess any other license to participate in the
6 permitted field trial, and the permit shall expire four (4) days after the date on which
7 the field trial began. With the single day permit, the permit is valid for one (1) day
8 and all participants shall have a valid resident or nonresident annual Kentucky
9 hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on
10 a licensed shooting preserve; however, all participants that take or attempt to take
11 game shall have in their possession a resident or nonresident annual Kentucky
12 hunting license;

13 (17) Game permits and junior game permits, which, in combination with a valid
14 statewide hunting license or a valid junior statewide hunting license, authorize the
15 holder to take or pursue the specified game species in any designated open area of
16 this state, during the open season and according to the provisions of the laws and
17 administrative regulations governing the hunting;

18 (18) A combination hunting and fishing license, which authorizes only resident holders
19 to perform all acts valid under either a sport fishing or hunting license;

20 (19) A trout permit, which in combination with a valid statewide fishing license,
21 authorizes the holder to take trout by angling or as may be prescribed by
22 administrative regulation;

23 (20) A commercial waterfowl permit, which authorizes the holder to establish and
24 operate a commercial waterfowl hunting preserve;

25 (21) A short-term hunting license, which authorizes the holder to perform all acts
26 authorized by a statewide hunting license according to the provisions of the laws
27 and administrative regulations of the department;

1 (22) A joint statewide resident sport fishing license issued to a husband and wife which
 2 authorizes them to take fish as provided in subsection (1) of this section. The
 3 license fee for this joint license shall be ten percent (10%) less than the license fee
 4 set by the commission for two (2) statewide resident sport fishing licenses;

5 (23) A Kentucky waterfowl permit, which in combination with a valid statewide hunting
 6 license and compliance with applicable federal law, authorizes the holder to take or
 7 pursue waterfowl and migratory shore or upland game birds;

8 (24) A pay lake license which authorizes the holder to operate privately owned
 9 impounded waters for fishing purposes for which a fee is charged;

10 (25) A migratory game bird permit, which, in combination with a statewide hunting
 11 license and compliance with applicable federal law, allows the holder to take
 12 migratory shore or upland game birds;

13 (26) A senior/disabled combination hunting and fishing license, which authorizes the
 14 holder to perform all acts valid under a sport fishing license, a sport hunting license,
 15 or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland
 16 game birds, and which shall be available to a Kentucky resident who is:

17 (a) Sixty-five (65) years of age or older; or

18 (b) An American veteran at least fifty percent (50%) disabled as a result of a
 19 service-connected disability; or

20 (c) Declared permanently and totally disabled by the Federal Social Security
 21 Administration, the United States Office of Personnel Management, the
 22 Teachers' Retirement System of the State of Kentucky, the
 23 Department~~[Office]~~ of Workers' Claims, or its equivalent from another state,
 24 or the United States Railroad Retirement Board.

25 The senior/disabled combination license shall not be valid unless the holder carries
 26 proof of residency and proof of age or disability, as the department may require by
 27 administrative regulation, on his or her person while performing an act authorized

1 by the license;

2 (27) A sportsman's license for residents that includes an annual hunting and fishing
3 license and such permits as allowed by administrative regulations promulgated by
4 the department; and

5 (28) A special license for residents and nonresidents for the purpose of hunting on
6 licensed shooting areas. This license shall be valid only for the shooting areas for
7 which it was issued and shall remain in effect for one (1) year. If the hunter holds
8 either a nonresident or resident statewide hunting license for the current year, the
9 special license shall not be required.

10 ➔Section 176. KRS 151.035 is amended to read as follows:

11 (1) The Kentucky Geological Survey shall be designated as the Commonwealth's
12 official repository for all information relating to the occurrence and quality of
13 groundwater as defined in KRS 151.100.

14 (2) The **Energy and Environment** Cabinet~~[for Environmental and Public Protection]~~,
15 the Cabinet for Health and Family Services, and any other cabinet, department,
16 commission, board, or governmental agency, except as provided in subsection (4) of
17 this section, that, by statute, administrative regulation, or as part of its routine
18 activities, collects or generates information about groundwater, shall transmit or
19 cause to be transmitted that information to the Kentucky Geological Survey within
20 ninety (90) days of receipt or generation, or a time determined between the
21 Geological Survey and the other party.

22 (3) The information to be transmitted may include:

- 23 (a) Drillers logs and completion reports of wells drilled or dug for the purpose of
- 24 producing, testing, or monitoring groundwater;
- 25 (b) Geophysical logs of water wells;
- 26 (c) Water quality analyses of both organic and inorganic constituents;
- 27 (d) Results of all pump, extraction, and injection tests;

- 1 (e) Flow determinations of surface discharges of groundwater; and
- 2 (f) Any additional data as the Kentucky Geological Survey shall require.

3 (4) All institutions of higher learning shall be encouraged, but not required, to submit to
 4 the Kentucky Geological Survey copies of all research data, including theses and
 5 dissertations relating to the occurrence or quality of groundwater.

6 ➔Section 177. KRS 151.100 is amended to read as follows:

7 As used in KRS 151.110 to 151.460 and 151.990, the words listed herein shall have the
 8 following respective meanings, unless another or different meaning or intent shall be
 9 clearly indicated by the context:

- 10 (1) The word "authority" shall mean the Water Resources Authority of Kentucky;
- 11 (2) The word "cabinet" shall mean the Energy and Environment~~Environmental and~~
 12 ~~Public Protection~~ Cabinet;
- 13 (3) The word "stream" or "watercourse" shall mean any river, creek or channel, having
 14 well defined banks, in which water flows for substantial periods of the year to drain
 15 a given area, or any lake or other body of water in the Commonwealth;
- 16 (4) The word "diffused surface water" shall mean that water which comes from falling
 17 rain or melting snow or ice, and which is diffused over the surface of the ground, or
 18 which temporarily flows vagrantly upon or over the surface of the ground as the
 19 natural elevations and depressions of the surface of the earth may guide it, until
 20 such water reaches a stream or watercourse;
- 21 (5) The word "ground water" or "subterranean water" shall mean all water which fills
 22 the natural openings under the earth's surface including all underground
 23 watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the
 24 earth's surface;
- 25 (6) The word "floodway" shall mean that area of a stream or watercourse necessary to
 26 carry off flood water as determined by the secretary;
- 27 (7) The word "floodplain" shall mean the area in a watershed that is subject to

1 inundation;

2 (8) The word "watershed" shall mean all the area from which all drainage passes a
3 given point downstream;

4 (9) The word "domestic use" shall mean the use of water for ordinary household
5 purposes, and drinking water for poultry, livestock, and domestic animals;

6 (10) The word "water resources project" or "project" shall mean any structural or
7 nonstructural study, plan, design, construction, development, improvement or any
8 other activity including programs for management, intended to conserve and
9 develop the water resources of the Commonwealth and shall include all aspects of
10 water supply, flood damage abatement, navigation, water-related recreation, and
11 land conservation facilities and measures;

12 (11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or
13 taking of water from any stream, watercourse or other body of public water;

14 (12) The word "dam" shall mean any artificial barrier, including appurtenant works,
15 which does or can impound or divert water, and which either:

16 (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the
17 stream or watercourse at the downstream toe of the barrier, as determined by
18 the cabinet; or

19 (b) Has or will have an impounding capacity at maximum water storage elevation
20 of fifty (50) acre-feet or more;

21 (13) "Embankment dam" shall mean any dam constructed of excavated natural materials
22 or of industrial waste materials;

23 (14) "Gravity dam" shall mean a dam constructed of concrete or masonry that relies on
24 its weight for stability;

25 (15) The word "person" shall mean any individual, public or private corporation,
26 political subdivision, government agency, municipality, copartnership, association,
27 firm, trust, estate, or other entity whatsoever;

1 (16) "Secretary" shall mean the secretary of the Energy and
 2 Environment~~[Environmental and Public Protection]~~ Cabinet;

3 (17) "Authorized representative" shall mean an individual specifically authorized by the
 4 secretary to act in his behalf;

5 (18) The word "reservoir" shall mean any basin which contains or will contain the water
 6 impounded by a dam; and

7 (19) "Owner" shall mean any person who owns an interest in, controls, or operates a
 8 dam.

9 ➔Section 178. KRS 151.550 is amended to read as follows:

10 (1) There is hereby created a Community Flood Damage Abatement Program within the
 11 Energy and Environment~~[Environmental and Public Protection]~~ Cabinet.

12 (2) It is hereby declared to be the purpose of the program to provide funds and technical
 13 assistance to local governments to initiate flood control projects and programs.

14 (3) This program shall be administered by the secretary according to standards designed
 15 to promote adequate planning, construction and conservation measures to deal with
 16 water drainage problems.

17 (4) Any local sponsoring community desiring to qualify for funding, must:

18 (a) Make application to the cabinet which shall be in the form and manner
 19 prescribed by the cabinet;

20 (b) Provide at no expense to the cabinet, all lands and easements necessary for
 21 project construction;

22 (c) Agree to operate and maintain the project in a manner acceptable to the
 23 Commonwealth to insure the continued capacity of the project to prevent or
 24 minimize flood damages;

25 (d) Submit evidence of the history of flooding within the last five (5) years;

26 (e) Submit evidence of flood damage in dollars within the last five (5) years.

27 (5) The cabinet shall have and exercise the power and authority to annually inspect the

1 completed project to insure compliance with any of the provisions of this section or
2 with any rules, regulations or orders adopted pursuant thereto, or with any of the
3 conditions contained in subsection (4)(c) of this section.

4 ➔Section 179. KRS 151.614 is amended to read as follows:

5 (1) Stream Restoration and Mitigation Authorities established under KRS 151.610 to
6 151.615 shall work in close partnership with local, state, and federal agencies in
7 actively advocating for the restoration, protection, and enhancement of the
8 watershed through stream restoration and mitigation projects. To this end, an
9 authority may:

10 (a) Recommend proposed stream restoration and mitigation projects to the 404
11 Mitigation Review Team for its consideration; and

12 (b) Undertake the management of stream restoration and mitigation projects and
13 may, in accordance with policies and regulations of the USACE, seek
14 approval to be designated by the USACE as a qualified mitigation
15 organization.

16 (2) Stream Restoration and Mitigation Authorities may:

17 (a) Establish a technical advisory committee, soliciting participation from
18 representatives of area utilities and water, sewer, and sanitation districts,
19 federal, state, and local governments, and agencies thereof, consultants,
20 colleges, and universities to assist the authority in the prioritization of
21 proposed mitigation projects, the management of mitigation projects and in
22 other efforts to improve watershed management;

23 (b) Review and comment on plans developed by federal, state, and local
24 government agencies which relate to the watershed management and identify
25 and recommend areas in which improved coordination of planning and project
26 design could, on a case-by-case and a systemic basis, result in greater
27 efficiencies and better outcomes for watershed management and water

1 resource protection;

2 (c) Initiate, sponsor, and participate in educational programs to increase public
3 awareness and stakeholder involvement in water resources protection and
4 watershed management;

5 (d) Prepare a six (6) year work plan, with annual review, for improvement of the
6 water resources of the watershed, including the:

7 1. Identification and prioritization of site-specific stream restoration
8 projects;

9 2. Development of recommendations for coordination of infrastructure
10 improvements and water resource enhancement;

11 3. Solicitation of public participation in development of the work plan and
12 of other strategies for water resource improvement and watershed
13 management; and

14 4. Description of accomplishment during the previous year and the status
15 of projects undertaken by the authority of other entities within the
16 watershed;

17 (e) Review project proposals for mitigation or restoration within the watershed to
18 ensure that the appropriate benchmarks and monitoring of preproject and
19 postproject hydrologic and biologic conditions are included in the mitigation
20 and restoration projects in order to measure success in achievement of the
21 project goals;

22 (f) Conduct pilot or demonstration projects for stream restoration and mitigation;
23 and

24 (g) Contract for technical assistance in undertaking any of the responsibilities
25 authorized under KRS 151.610 to 151.615.

26 (3) Stream Restoration and Mitigation Authorities shall report to the Legislative
27 Research Commission by October 31 of each year on any stream restoration and

1 mitigation work performed by the authority in the watershed, including the amount
 2 of mitigation funds received from USACE or from a permittee under a Section 404
 3 permit approved by the USACE, and any funding received from all sources and a
 4 listing of upcoming restoration and mitigation projects authorized by the USACE or
 5 the Department for Environmental Protection.

6 (4) When performing any stream restoration or mitigation activity, the authority shall
 7 comply with all permitting procedures set out in federal and state statutes and
 8 associated regulations of the USACE and the Kentucky Energy and
 9 Environment~~[Environmental and Public Protection]~~ Cabinet, and other local, state,
 10 and federal agencies, as appropriate.

11 (5) The work plan provided for in paragraph (d) of subsection (2) of this section shall
 12 not be construed as amending or affecting plans developed under local, state, or
 13 federal law, including plans developed under Section 208 of the Federal Water
 14 Pollution Act, 33 U.S.C. sec 1288.

15 ➔Section 180. KRS 151.710 is amended to read as follows:

16 (1) The Governor shall appoint members to the Kentucky River Authority, created to
 17 carry out the essential public purpose of protecting the health and welfare of the
 18 people of the Commonwealth as declared in KRS 151.700.

19 (2) The Governor shall appoint the secretaries of the Finance and Administration
 20 Cabinet and the Energy and Environment~~[Environmental and Public Protection]~~
 21 Cabinet and ten (10) other persons as the members of the authority. The secretaries
 22 may designate alternates. Of the ten (10) persons, one (1) shall be a registered
 23 engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county
 24 judge/executive. The mayor and the county judge/executive shall be officers from
 25 counties which obtain the major portion of their water supply from the Kentucky
 26 River. Five (5) members shall reside in a county adjacent to the main stem of the
 27 Kentucky River, one (1) of the five (5) members residing in counties adjacent to

1 locks and dams one (1) through four (4); and one (1) member shall reside in a
 2 county adjacent to either the North Fork, Middle Fork, or South Fork of the
 3 Kentucky River. Of the twelve (12) members, only one (1) may be an employee of
 4 the Energy and Environment~~Environmental and Public Protection~~ Cabinet.

5 (3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of
 6 one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years,
 7 and three (3) for terms of four (4) years, as the Governor designates. At the
 8 expiration of the original terms and for all succeeding terms, the Governor shall
 9 appoint a successor to the authority for a term of four (4) years in each case.
 10 Members may be reappointed. A vacancy in an unexpired term shall be filled for the
 11 unexpired portion of the term in the same manner as the original appointment to
 12 that term. Any member whose term has expired may continue to serve and vote
 13 until his or her successor is appointed and qualified.

14 (4) Each member shall receive as compensation one hundred dollars (\$100) per day for
 15 attending a meeting of the authority.

16 (5) Any member who misses three (3) consecutive meetings of the authority shall be
 17 deemed to have vacated the office. The authority shall declare the office vacant and
 18 the office shall be filled as provided by subsections (2) and (3) of this section.

19 (6) The authority annually shall elect one (1) of its members as chairman. A quorum for
 20 the transaction of business shall be seven (7) members, and a majority of the
 21 members present at a meeting may take action on any matter legally before the
 22 authority.

23 (7) Members shall be paid their necessary travel expenses incurred in attending
 24 meetings and in the performance of their official duties, in addition to the per diem
 25 compensation of one hundred dollars (\$100).

26 (8) The authority shall meet at least quarterly, and may meet upon the call of the
 27 chairman.

- 1 (9) The chairman shall be paid necessary travel expenses and a one hundred dollar
2 (\$100) per diem compensation for conducting official business of the authority.
- 3 (10) The authority shall be attached for administrative purposes to the Finance and
4 Administration Cabinet, and the cabinet shall provide the necessary personnel to
5 provide administrative services for the authority.
- 6 (11) The necessary travel expenses and per diem compensation of the members of the
7 authority in attending meetings and in the performance of their official duties shall
8 be paid by the authority.
- 9 (12) The authority shall promulgate administrative regulations necessary to carry out its
10 duties, and shall report annually to the Governor and the Legislative Research
11 Commission.

12 ➔Section 181. KRS 151.720 is amended to read as follows:

13 The Kentucky River Authority is authorized and empowered to:

- 14 (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and
15 dams on the Kentucky River and all real and personal property pertaining thereto, as
16 well as maintain the channel;
- 17 (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or
18 otherwise, the fee simple title to or any acceptable lesser interest in any real or
19 personal property and by lease or other conveyance, contract for the right to use and
20 occupy any real or personal property selected in the discretion of the authority as
21 constituting necessary, desirable, or acceptable sites to fulfill its statutory authority
22 and power;
- 23 (3) Lease its real or personal property to other state agencies, political subdivisions of
24 the Commonwealth, corporations, partnerships, associations, foundations, or
25 persons as the authority deems necessary to carry out the purposes of this section;
- 26 (4) Sell or otherwise dispose of its real or personal property in accordance with KRS
27 56.463 and 45A.045;

- 1 (5) Collect water use fees from all facilities using water from the Kentucky River basin,
2 except those facilities using water primarily for agricultural purposes. Facilities
3 charged such a fee may pass on all or any part of the fee;
- 4 (6) Issue revenue bonds in accordance with KRS 151.730;
- 5 (7) Employ persons to carry out the authority's responsibilities with revenue from the
6 water use fees, including an executive director who shall serve at the pleasure of the
7 authority;
- 8 (8) Contract for services with other state agencies, political subdivisions of the
9 Commonwealth, corporations, partnerships, associations, foundations, or persons to
10 perform its duties;
- 11 (9) Promulgate administrative regulations providing for clean water, which shall not be
12 less stringent than the state and federal regulations for clean water;
- 13 (10) Exercise all other powers necessary to perform its public purpose to implement and
14 enforce the plans developed by the authority pursuant to this section and KRS
15 151.727 and 151.728, and to enforce administrative regulations promulgated by the
16 authority. The long-range water resource plan and drought response plan shall be
17 implemented for the basin upon the direction of the authority;
- 18 (11) Develop comprehensive plans for the management of the Kentucky River within the
19 basin, including a long-range water resource plan and a drought response plan. Each
20 county within the basin shall develop a long-range water resource plan and submit it
21 to the authority. The authority, after consultation with the Energy and
22 Environment~~[Environmental and Public Protection]~~ Cabinet, shall develop a
23 unified long-range water resource plan for the basin. The unified long-range water
24 resource plan shall be implemented over short-range and long-range time periods.
25 The short-range plan shall be for a period of six (6) years and the long-range plan
26 shall be for a period of twenty (20) years. The authority shall conduct a public
27 hearing on the plan prior to its adoption and amend the plan as appropriate based on

1 the comments received. The Energy and Environment~~Environmental and Public~~
 2 ~~Protection~~] Cabinet shall review the draft unified plan and provide comment during
 3 the public comment period concerning the consistency of the plan with the state
 4 requirements under KRS Chapters 224 and 151. A drought response plan for the
 5 basin shall be developed by the authority and shall be coordinated with the Energy
 6 and Environment~~Environmental and Public Protection~~] Cabinet to assure
 7 consistency with KRS Chapters 224 and 151, and this plan shall be implemented for
 8 the basin upon the direction of the authority;

9 (12) Develop and promote a plan for the protection and use of groundwater within the
 10 basin. Administrative regulations may be promulgated implementing the plan, and
 11 these regulations shall not be less stringent than state and federal regulations
 12 protecting groundwater;

13 (13) Promote private investment in the installation of hydroelectric generating units on
 14 all existing constructed and reconstructed Kentucky River dams under the
 15 jurisdiction of the authority, by developing a standard lease, establishing reasonable
 16 financial responsibility requirements, verifying that the proposed installation of the
 17 hydroelectric unit will not adversely affect the structural integrity of the dam, and
 18 adopting a schedule of reasonable fees for water used in the generation of
 19 hydroelectric power;

20 (14) Develop recreational areas within the basin. These recreational areas may be
 21 operated and funded by the state Department of Parks, Kentucky State Nature
 22 Preserves Commission, or other governmental entity as specifically authorized or
 23 permitted within the biennial executive budget. There is hereby created the
 24 Kentucky River Park to be located as determined by the authority;

25 (15) Utilize funds provided for recreational purposes within the biennial executive
 26 budget for major or minor maintenance if the authority certifies to the secretary of
 27 the Finance and Administration Cabinet that a significant need exists for the repairs

- 1 and no other funds are available for the maintenance;
- 2 (16) Coordinate the Kentucky River basin water resources activities among state
3 agencies;
- 4 (17) Report quarterly on all of its activities to the legislative Committee on
5 Appropriations and Revenue;
- 6 (18) Receive reports from state agencies on litigation concerning the Kentucky River,
7 which agencies are hereby directed to report to the authority;
- 8 (19) Credit to the authority any income derived from the interest earned on the
9 investment of the water use fees collected, which shall be available for the
10 authority's expenditure; and
- 11 (20) Accomplish the watershed management mission of the authority, which is to fulfill
12 the provisions of this section for the Kentucky River basin, the boundary of which
13 shall be defined by a hydrologic map promulgated in an administrative regulation.

14 ➔Section 182. KRS 151B.175 is amended to read as follows:

- 15 (1) The executive director of the Office of Career and Technical Education is
16 authorized to provide medical and accident insurance for students enrolled in the
17 state secondary area technology centers and area vocational education centers. The
18 Office of Career and Technical Education may enter into a contract or contracts
19 with one (1) or more sureties or insurance companies or their agents to provide
20 appropriate medical and accident insurance coverage and to provide group coverage
21 to all students enrolled in state-operated schools under its jurisdiction. The
22 appropriate group coverage shall be issued by one (1) or more sureties or insurance
23 companies authorized to transact business in this state, and such coverage shall be
24 approved by the commissioner~~[executive director]~~ of insurance.
- 25 (2) The executive director of the Office of Career and Technical Education shall
26 promulgate administrative regulations to implement the medical and accident
27 insurance program. The executive director of the Office of Career and Technical

1 Education may fix the rate of fees for all secondary students, the provisions of KRS
 2 151B.165 with respect to fees for secondary students notwithstanding, as he or she
 3 deems necessary to meet the expense in whole or in part for appropriate student
 4 medical and accident insurance.

- 5 (3) The limits of liability and other appropriate provisions for student medical and
 6 accident insurance authorized by this section shall be set by the executive director
 7 of the Office of Career and Technical Education.

8 ➔Section 183. KRS 152.590 is amended to read as follows:

9 The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet shall have
 10 the following general powers:

- 11 (1) To acquire by purchase, exercise of the right of eminent domain, grant, gift, devise
 12 or otherwise, the fee simple title to or any acceptable lesser interest in any lands,
 13 and by lease or other contract the right to use and occupy any lands, selected in the
 14 discretion of the secretary of the **Energy and Environment**~~[Environmental and~~
 15 ~~Public Protection]~~ Cabinet as constituting necessary, desirable or acceptable sites
 16 for projects of the cabinet, including any and all lands adjacent to a project site as in
 17 the discretion of the secretary may be necessary or suitable for satellite projects or
 18 restricted areas; but in all instances lands which are to be designated as radioactive
 19 waste material sites shall be acquired in fee simple absolute and dedicated in
 20 perpetuity to such purpose;

- 21 (2) To convey to private enterprise, or to lease to private enterprise for such term as in
 22 the discretion of the secretary of the Finance and Administration Cabinet may be in
 23 the public interest, any lands so acquired, either for a fair and reasonable
 24 consideration or solely or partly as an inducement to the establishment or location in
 25 the Commonwealth of any scientific or technological facility, project, satellite
 26 project or nuclear storage area; but subject to such restraints as may be deemed
 27 proper to bring about a reversion of title or termination of any lease in the event the

1 grantee or lessee, as the case may be, shall cease to use the premises or facilities in
2 the conduct of business or activities consistent with laws and regulations of the
3 Commonwealth; provided, however, radioactive waste material sites may be leased
4 but may not otherwise be disposed of except to the Commonwealth, or to the United
5 States;

6 (3) To construct, reconstruct, maintain, repair, operate and regulate projects at such
7 locations within the Commonwealth as may be determined by the secretary;

8 (4) To fix by contract, or to establish and revise from time to time and charge and
9 collect revenues, rentals, rates and charges for use of the services and facilities of
10 projects;

11 (5) To combine for financing purposes any two (2) or more projects;

12 (6) To establish and enforce rules and regulations for the use of any project;

13 (7) Without reference to KRS Chapter 56, to acquire and hold real and personal
14 property in the exercise of its powers and the performance of its functions and
15 duties under this section, and to dispose of the same with due regard for public
16 health and safety, except in the case of radioactive waste material sites, which may
17 be disposed of only to the Commonwealth itself, or to the United States, except as
18 provided in subsection (2);

19 (8) To designate the locations and establish, limit and control such points of ingress to
20 and egress from each project as the secretary may determine to be necessary or
21 desirable to insure the proper operation and maintenance of such project, and to
22 prohibit entrance to such project from any point or points not so designated;

23 (9) To make and enter into such contracts and agreements with governmental agencies
24 and private enterprise as may be necessary or incidental to the performance of its
25 duties and the execution of its powers under this section;

26 (10) To employ scientists, consulting engineers, health officers, attorneys, accountants,
27 construction and financial experts, superintendents, managers and such other

employees and agents as may be necessary in the judgment of the secretary and to fix their compensation;

(11) To receive and accept from any governmental agency, or from private enterprise, appropriations, grants or contributions in money, property, labor or other things of value, to be held, used and applied for or in aid of any project;

(12) To do all acts and things necessary or convenient to carry out the powers expressly granted in this section.

→Section 184. KRS 152.712 is amended to read as follows:

(1) ~~[The Governor's Office of Energy Policy is created and attached for administrative purposes to the Office of the Governor. The Governor's Office of Energy Policy shall be headed by an executive director.]~~

(2) ~~—~~ The Department for Energy Development and Independence in the Energy and Environment Cabinet ~~[Governor's Office of Energy Policy]~~ shall:

(a) Oversee the ~~[development and]~~ implementation of Kentucky's comprehensive energy strategy;

(b) Provide leadership to enhance the benefits of energy efficiency and alternative energy through supporting awareness, technology development, energy preparedness, partnerships, and resource development;

(c) Enhance the economic opportunities and benefits to Kentucky citizens and industry through expansion of current markets and the development of market opportunities for Kentucky coal, natural gas, petroleum, oil shale, tar sands, liquid and gaseous fuels from coal, and chemicals from coal;

(d) To the extent funding is available, administer grant programs to support energy-related research, development, and demonstration, including the support of multistate cooperative regional partnerships and research initiatives;

(e) Develop and implement programs for the development, conservation, and

utilization of energy in a manner to meet essential human needs while maintaining the Kentucky economy at the highest feasible level. The programs shall include:

1. Central access for collection, maintenance, and analysis of data and information on all forms of energy supply, demand, conservation, and related subjects;
2. Formulation of a contingency plan to address any energy shortage which may occur from time to time. The contingency plan shall relate to the curtailment, allocation, planning, and management of all forms of energy;
3. Development and implementation of major energy conservation programs involving all sectors of the Kentucky economy, including energy audits of educational facilities and state-owned buildings; and
4. Provision for the application of appropriate technologies with regard to alternative energy development, including the development of solar and other renewable resources and small-scale hydroelectric plants, and promotion, when feasible, of the production of energy from other resources such as solid waste and biomass;

(f) Provide technical assistance to the Finance and Administration Cabinet in implementing the Energy Efficiency in Government Buildings Program;

(g) Enter into agreements, administer grant programs, and serve as a liaison with the federal government and other states in matters relating to energy; and

(h) Participate in the review of applications and, upon request of the authority, assist the Kentucky Economic Development Finance Authority in monitoring tax incentive agreements as provided in Subchapter 27 of KRS Chapter 154.

~~(2)(3)~~ The department~~[office]~~ may establish reasonable application fees to offset costs associated with reviewing and processing applications, including costs

1 associated with hiring outside consultants.

2 ~~(3)~~~~(4)~~ The ~~department~~~~office~~ is encouraged to use state funding available to it as a
3 match for federal or private funding to increase the resources available to support
4 energy research and development.

5 ~~(4)~~~~(5)~~ The ~~department~~~~office~~ is encouraged to explore and develop regional
6 partnerships and cooperative research initiatives with other states and governmental
7 entities to enhance resources available for energy research and development.

8 ➔Section 185. KRS 152.713 is amended to read as follows:

9 (1) For purposes of this section, "renewable energy" has the same meaning as in KRS
10 154.20-400.

11 (2) The Center for Renewable Energy Research and Environmental Stewardship is
12 hereby created and attached to the Energy and Environment Cabinet~~Governor's~~
13 ~~Office of Energy Policy~~ for administrative purposes. The Energy and
14 Environment Cabinet~~Governor's Office of Energy Policy~~ shall provide
15 consultation, coordination services, technical assistance, and staff support to the
16 board of directors created in subsection (4) of this section, on an as-needed basis,
17 and perform other necessary administrative functions until the center is deemed
18 fully operational. The ~~secretary~~~~executive director~~ of the ~~cabinet~~~~office~~ or his or
19 her designee shall coordinate the development of the center and act as the chair of
20 the board of directors created in subsection (4) of this section until the board is
21 established and is operational.

22 (3) The Center for Renewable Energy Research and Environmental Stewardship shall:
23 (a) Provide leadership, research, support, and policy development in renewable
24 energy;
25 (b) Advance the goal of renewable energy;
26 (c) Promote technologies, practices, and programs that increase efficiency in
27 energy utilization in homes, businesses, and public buildings;

- 1 (d) Emphasize energy policies that would result in cost-conscious, responsible
2 development of Kentucky's energy resources and a commitment to
3 environmental quality;
- 4 (e) Promote partnerships among the state's postsecondary education institutions,
5 private industry, and nonprofit organizations to actively pursue federal
6 research and development resources that are dedicated to renewable energy;
- 7 (f) Promote the continued development of public-private partnerships dedicated
8 to promoting energy efficiency through education and outreach;
- 9 (g) Establish research priorities with approval of the board of directors created in
10 subsection (4) of this section, relating to renewable energy, and develop
11 procedures and processes for awarding research grants to eligible recipients as
12 defined by the board and to the extent that funding is available;
- 13 (h) Collaborate with the Department for Energy Development and
14 Independence~~[Governor's Office of Energy Policy]~~ to avoid duplication of
15 efforts, provide appropriate data and information, and support the
16 implementation of Kentucky's comprehensive energy strategy; and
- 17 (i) Carry out other activities to further the efficient and environmentally
18 responsible use of renewable energy.
- 19 (4) (a) There is hereby created a governing board of directors to provide policy
20 direction, establish a strategic research agenda and operating policies, and
21 provide financial and operational oversight for the Center for Renewable
22 Energy Research and Environmental Stewardship. The initial board shall be
23 appointed within sixty (60) days following July 15, 2008.
- 24 (b) The board shall consist of thirteen (13) members:
 - 25 1. One (1) member to represent the Department for Energy Development
26 and Independence~~[Governor's Office of Energy Policy]~~ as designated
27 by its commissioner~~[executive director]~~;

- 1 2. Three (3) members representing postsecondary education interests who
- 2 shall be appointed by the Governor;
- 3 3. One (1) member to be designated by the governing body of the Kentucky
- 4 Science and Technology Corporation;
- 5 4. One (1) member from an energy conservation organization who shall be
- 6 appointed by the Governor;
- 7 5. The secretary of the Economic Development Cabinet or the secretary's
- 8 designee;
- 9 6. One (1) member who shall be a recognized consumer advocate to be
- 10 appointed by the Governor;
- 11 7. Three (3) members to represent companies that are focused on
- 12 renewable energy who shall be appointed by the Governor;
- 13 8. One (1) member who shall represent environmental interests to be
- 14 appointed by the Governor; and
- 15 9. One (1) member who shall be selected to represent local government
- 16 interests to be appointed by the Governor.
- 17 (c) The members appointed by the Governor shall serve two (2) year terms and
- 18 may be reappointed. The members representing specific agencies shall serve
- 19 for as long as the respective agencies determine appropriate.
- 20 (5) The board shall:
 - 21 (a) Adopt operating procedures, including a meeting schedule;
 - 22 (b) Meet at least quarterly;
 - 23 (c) Select a chair and co-chair annually who may be reelected, not to exceed three
 - 24 (3) consecutive terms;
 - 25 (d) Establish working groups or subcommittees of the board as the board
 - 26 determines is needed;
 - 27 (e) Establish qualifications and job descriptions, set the compensation and

benefits, and employ staff as it determines necessary to carry out its responsibilities under this section; and

- (f) Provide an annual program and financial report to the Legislative Research Commission within ninety (90) days of the close of each fiscal year.

→ Section 186. KRS 152.714 is amended to read as follows:

From a list of potential sites developed by the Department for Energy Development and Independence~~[Governor's Office of Energy Policy]~~ and suitable for development of alternative fuel facilities, gasification facilities, or renewable energy facilities as defined in KRS 154.27-010, the Department for Energy Development and Independence~~[Governor's Office of Energy Policy]~~ may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting required for the development of an eligible project.

→ Section 187. KRS 152.715 is amended to read as follows:

As used in KRS 152.710 to 152.720~~[152.725]~~, unless the context requires otherwise:

- (1) "Alternative transportation fuels" means crude oil or transportation fuels produced by processes that convert coal, waste coal, or biomass resources or that extract oil from oil shale or tar sands to produce crude oil or fuels for powering vehicles, aircraft, and machinery. "Alternative transportation fuels" may include but are not limited to petroleum, jet fuel, gasoline, diesel fuel, hydrogen derived from coal, and diesel fuel and ethanol derived from biomass;
- (2) "Synthetic natural gas" means pipeline quality or industrial quality natural gas produced from coal through gasification processes;
- (3) "Fossil energy resources" means reserves of coal, oil shale, and natural gas; and
- (4) "Biomass resources" means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees; wood and wood residues; plants, aquatic plants, and plant oils; grasses; animal fats and animal by-products;

1 animal manure; residue materials; and waste products.

2 ➔Section 188. KRS 152.720 is amended to read as follows:

3 To ensure that Kentucky will lead the states in securing the energy independence of the
 4 United States and will consequently benefit from economic growth and stabilization of
 5 the Commonwealth's coal industry and agriculture, the Department for Energy
 6 Development and Independence~~[Governor's Office of Energy Policy]~~ shall develop and
 7 implement a strategy for production of alternative fuels and synthetic natural gas from
 8 fossil energy resources and biomass resources. The strategy shall address:

- 9 (1) Technologies available or in use for producing alternative fuels and synthetic
 10 natural gas from fossil energy resources and biomass resources and the relative
 11 advantages of these in terms of process efficiencies, environmental performance,
 12 and marketable products, including chemicals, industrial feedstocks, and electricity;
- 13 (2) Research, demonstration, and commercial-scale construction and operation of one
 14 (1) or more technologies, and follow-up expansion;
- 15 (3) The essential nature of efficient cooperation, coordination, and synergy between the
 16 efforts of the Department for Energy Development and Independence~~[Governor's~~
 17 ~~Office of Energy Policy]~~ and those of Kentucky's universities in order to maximize
 18 Kentucky's opportunities to access federal funds and to receive research grants and
 19 awards from federal and other sources to fund the development of clean coal
 20 technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternative
 21 transportation fuels, and biomass resources;
- 22 (4) The identification of federal funds available for research, development,
 23 construction, and operation of alternative fuels or synthetic natural gas plants at
 24 laboratory, demonstration, and commercial scale;
- 25 (5) Establishment of a major federal energy research laboratory in Kentucky;
- 26 (6) Industry participation, both by single firms and by consortia, in research,
 27 development, construction, and operation of alternative transportation fuels or

1 synthetic natural gas plants;

2 (7) Establishment or expansion of Kentucky state government incentives for
3 development, construction, or operation of alternative transportation fuels and
4 synthetic natural gas production facilities, including but not limited to financial
5 incentives, tax incentives, mandating or providing incentives for use of alternative
6 transportation fuels and synthetic natural gas by state government, school districts,
7 or utilities, authority to issue bonds, and acquisition and preliminary environmental
8 assessment of industrial sites; and

9 (8) Development of incentives to encourage energy conservation and renewable fuel
10 and energy use and deployment of renewable energy, including solar power, wind
11 power, hydropower, and other sources.

12 ➔ Section 189. KRS 152.590 is amended to read as follows:

13 The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet shall have
14 the following general powers:

15 (1) To acquire by purchase, exercise of the right of eminent domain, grant, gift, devise
16 or otherwise, the fee simple title to or any acceptable lesser interest in any lands,
17 and by lease or other contract the right to use and occupy any lands, selected in the
18 discretion of the secretary of the **Energy and Environment**~~[Environmental and
19 Public Protection]~~ Cabinet as constituting necessary, desirable or acceptable sites
20 for projects of the cabinet, including any and all lands adjacent to a project site as in
21 the discretion of the secretary may be necessary or suitable for satellite projects or
22 restricted areas; but in all instances lands which are to be designated as radioactive
23 waste material sites shall be acquired in fee simple absolute and dedicated in
24 perpetuity to such purpose;

25 (2) To convey to private enterprise, or to lease to private enterprise for such term as in
26 the discretion of the secretary of the Finance and Administration Cabinet may be in
27 the public interest, any lands so acquired, either for a fair and reasonable

1 consideration or solely or partly as an inducement to the establishment or location in
2 the Commonwealth of any scientific or technological facility, project, satellite
3 project or nuclear storage area; but subject to such restraints as may be deemed
4 proper to bring about a reversion of title or termination of any lease in the event the
5 grantee or lessee, as the case may be, shall cease to use the premises or facilities in
6 the conduct of business or activities consistent with laws and regulations of the
7 Commonwealth; provided, however, radioactive waste material sites may be leased
8 but may not otherwise be disposed of except to the Commonwealth, or to the United
9 States;

10 (3) To construct, reconstruct, maintain, repair, operate and regulate projects at such
11 locations within the Commonwealth as may be determined by the secretary;

12 (4) To fix by contract, or to establish and revise from time to time and charge and
13 collect revenues, rentals, rates and charges for use of the services and facilities of
14 projects;

15 (5) To combine for financing purposes any two (2) or more projects;

16 (6) To establish and enforce rules and regulations for the use of any project;

17 (7) Without reference to KRS Chapter 56, to acquire and hold real and personal
18 property in the exercise of its powers and the performance of its functions and
19 duties under this section, and to dispose of the same with due regard for public
20 health and safety, except in the case of radioactive waste material sites, which may
21 be disposed of only to the Commonwealth itself, or to the United States, except as
22 provided in subsection (2);

23 (8) To designate the locations and establish, limit and control such points of ingress to
24 and egress from each project as the secretary may determine to be necessary or
25 desirable to insure the proper operation and maintenance of such project, and to
26 prohibit entrance to such project from any point or points not so designated;

27 (9) To make and enter into such contracts and agreements with governmental agencies

1 and private enterprise as may be necessary or incidental to the performance of its
 2 duties and the execution of its powers under this section;

3 (10) To employ scientists, consulting engineers, health officers, attorneys, accountants,
 4 construction and financial experts, superintendents, managers and such other
 5 employees and agents as may be necessary in the judgment of the secretary and to
 6 fix their compensation;

7 (11) To receive and accept from any governmental agency, or from private enterprise,
 8 appropriations, grants or contributions in money, property, labor or other things of
 9 value, to be held, used and applied for or in aid of any project;

10 (12) To do all acts and things necessary or convenient to carry out the powers expressly
 11 granted in this section.

12 ➔Section 190. KRS 153.420 is amended to read as follows:

13 The Kentucky Center for the Arts Corporation:

14 (1) Shall supervise construction of the Kentucky Center for the Arts in conjunction with
 15 the Finance and Administration Cabinet, and shall provide all management
 16 functions for the facility and for any other property acquired or leased pursuant to
 17 its powers under this section;

18 (2) May take, acquire and hold property, and all interests therein, by deed, purchase,
 19 gift, devise, bequest, lease or eminent domain, or by transfer from the State Property
 20 and Buildings Commission, and may dispose of any property so acquired in any
 21 manner provided by law. In the exercise of its power of eminent domain, it shall
 22 proceed in the manner provided in the Eminent Domain Act of Kentucky, KRS
 23 416.540 to 416.680;

24 (3) May consult or enter into agreements with other segments of the arts and
 25 entertainment industry to provide technical, professional, or management support or
 26 assistance, consistent with its purpose and mission;

27 (4) May issue revenue bonds, subject to procedures which shall be established by the

- 1 Finance and Administration Cabinet, solely payable from the charges, revenues,
2 rentals, and other funds pledged for their payment for the purpose of paying all or
3 any part of the cost of any project or for the acquisition of property;
- 4 (5) Shall promote the growth and development of the arts, convention trade, tourism
5 and the hotel industry within Jefferson County and the Commonwealth, through
6 utilization of the Kentucky center and activities authorized in this section to
7 enhance these and the public interest;
- 8 (6) May adopt administrative regulations, as provided in KRS Chapter 13A, governing
9 the operation, maintenance or use of property under its custody and control;
- 10 (7) May levy a surcharge on tickets for all functions held within the center to contribute
11 to operating revenue;
- 12 (8) May receive tax revenues from any governmental unit, and financial contributions
13 of local governments, private persons and foundations;
- 14 (9) Shall have exclusive control of all exhibitions, performances and concessions in the
15 Center for the Arts. The corporation shall have a prior lien upon the property of any
16 private exhibitor, concessionaire, or other person holding an exhibition or
17 performance or operating a concession in the center, and may sell such property
18 upon ten (10) days' notice to satisfy any indebtedness;
- 19 (10) Shall develop in conjunction with local hotels, and the arts and entertainment
20 industry, tourist packages including performance and group plans, and shall
21 participate with local hotels and convention bureaus in attracting non-arts related
22 conferences and conventions;
- 23 (11) May establish an executive committee from among its membership with full
24 authority to act between its meetings to the extent delegated by the corporation;
- 25 (12) May sue and be sued and maintain and defend legal actions in its corporate name;
- 26 (13) May, if the corporation elects, be exempt from the provisions of KRS 56.065 to
27 56.180, and, with the approval of the secretary of the Finance and Administration

1 Cabinet and the Department~~[Office]~~ of Insurance, purchase from the funds allotted
 2 to the corporation property insurance for buildings and contents from responsible
 3 insurance companies doing business in this state; and

4 (14) May purchase liability insurance for the protection of the corporation and its
 5 employees from liability arising in the operation of the center.

6 ➔Section 191. KRS 154.01-010 is amended to read as follows:

7 As used in this chapter, unless the context indicates otherwise:

8 (1) "Agribusiness" or "agricultural business entity" means any person, partnership,
 9 limited partnership, corporation, limited liability company, or any other entity
 10 engaged in a business that processes raw agricultural products, including timber, or
 11 provides value-added functions with regard to raw agricultural products;

12 (2) "Approved business network" or "approved flexible industrial network" means a
 13 business network comprising three (3) or more business firms or industries which
 14 have been identified as key industries and targeted by the state's strategic economic
 15 development plan for special consideration and assistance by the agencies of the
 16 Commonwealth;

17 (3) "Authority" means the Kentucky Economic Development Finance Authority,
 18 consisting of a committee as set forth in KRS 154.20-010;

19 (4) "Board" means the Kentucky Economic Development Partnership, an
 20 administrative body within the meaning of KRS 12.010, and the governing body of
 21 the Cabinet for Economic Development, as created and established in KRS 154.10-
 22 010;

23 (5) "Business network" or "flexible industrial network" means a formalized,
 24 collaborative mechanism organized by and operating among three (3) or more
 25 industrial entities, business enterprises, or private sector firms for the purposes of,
 26 but not limited to: pooling expertise; improving responses to changing technology
 27 or markets; lowering the risks to individual entities of accelerated modernization;

1 encouraging new technology investments, new market development, and employee
2 skills improvement; and developing a system of collective intelligence among
3 participating entities;

4 (6) "Cabinet" means the Cabinet for Economic Development as established under KRS
5 12.250, and governed by the Kentucky Economic Development Partnership;

6 (7) "Commonwealth" means the Commonwealth of Kentucky;

7 (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction,
8 conversion, or leasing of any industrial, commercial, health care, agricultural, or
9 forestry enterprise, or any part thereof, to carry out the purposes and objectives of
10 this chapter, including but not limited to acquisition of land or interest in land,
11 buildings, structures, or other planned or existing planned improvements to land,
12 including leasehold improvements, machinery, equipment, or furnishings; working
13 capital; and administrative costs, including but not limited to engineering,
14 architectural, legal, and accounting fees which are necessary for the project;

15 (9) "Local and regional economic development interest" means any local business or
16 economic development interest, including but not limited to chambers of
17 commerce, business development associations, industrial development
18 organizations, area development districts, and public economic development
19 entities;

20 (10) "Industrial entity" means any corporation, limited liability company, partnership,
21 limited partnership, person, or any other legal entity, domestic or foreign, which
22 will itself or through its subsidiaries or affiliates, engage in an industrial
23 improvement project in the Commonwealth;

24 (11) "Industrial improvement project" means and includes the acquisition, construction,
25 or implementation of new manufacturing, processing, or assembling facilities,
26 equipment, methods or processes, or improvements to or repair of existing
27 manufacturing, processing, or assembling facilities, equipment, methods, or

1 processes, including repair, restoration, or conversion of tobacco warehouses, as
2 well as improvements to the real estate upon which the facilities are located, and
3 includes any capital improvement to any existing facility, including any
4 restructuring, retooling, rebuilding, reequipping, or any other form of upgrading
5 such existing facility and equipment and any other improvements to such real estate,
6 existing facility, or manufacturing, processing, or assembling equipment, method,
7 or process;

8 (12) "Key industry" means an industry or business within an industrial sector which has
9 been identified in and targeted by the state's economic development strategic plan as
10 having major importance to the sustained economic growth of the Commonwealth
11 and in which member firms sell goods or services into markets for which national or
12 international competition exists, including but not limited to secondary forest
13 products manufacturing, agribusiness, and high technology and biotechnology
14 manufacturing and services;

15 (13) "Military" and "defense" mean all military and defense installations, entities,
16 activities, and personnel located, operating, or living in Kentucky;

17 (14) "Municipality" means a county, city, village, township, development organization,
18 an institution of higher education, a community or junior college, a subdivision or
19 instrumentality of any of the foregoing, or any entity created by two (2) or more
20 municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;

21 (15) "Network broker" means a person who is trained to assist private sector firms to
22 form business networks and make other similar efforts to provide for joint
23 manufacturing, marketing, technology development, information dissemination, and
24 other activities;

25 (16) "Non-appropriation-supported bond" means any long-term financial borrowing
26 instrument for which regular debt service does not originate from an appropriation
27 of the General Assembly;

1 (17) "Non-appropriation-supported note" means any short-term financial borrowing
 2 instrument for which loan payments do not originate from an appropriation of the
 3 General Assembly;

4 (18) "Person" means an individual, partnership, joint venture, military facility operated
 5 by a department or agency of the United States, profit or nonprofit corporation
 6 including a public or private college or university, limited liability company, or
 7 other entity or association of persons organized for agricultural, commercial, health
 8 care, or industrial purposes; or a public utility or local industrial development
 9 corporation;

10 (19) "Private sector" means any source other than the authority, a state or federal entity,
 11 or an agency thereof;

12 (20) (a) "Project" means an endeavor approved by the cabinet or authority and related
 13 to industrial, manufacturing, mining, mining reclamation for economic
 14 development, commercial, health care, or agricultural enterprise.

15 (b) "Project" shall include but is not limited to agribusiness, agricultural or
 16 forestry production, harvesting, storage, or processing facilities or equipment;
 17 equipment or facilities designed to produce energy from renewable resources;
 18 research parks; office facilities; engineering facilities; research and
 19 development laboratories; repair, restoration, or conversion of tobacco
 20 warehouses for an economic development or commercial use; warehousing
 21 facilities; parts distribution facilities; depots or storage facilities; port
 22 facilities; railroad facilities, including trackage, right-of-way, and
 23 appurtenances; airports and airport renovation; water and air pollution control
 24 equipment or waste disposal facilities; tourist facilities; theme or recreational
 25 parks; health care and health related facilities; farms, ranches, forests, and
 26 other agricultural or forestry commodity producers; agricultural harvesting,
 27 storage, transportation, or processing facilities or equipment; grain elevators;

1 shipping heads and livestock pens; livestock; wharves and dock facilities;
 2 water, electricity, hydroelectric, coal, petroleum, or natural gas provision
 3 facilities; dams and irrigation facilities; sewage, liquid, and solid waste
 4 collection, disposal treatment, and drainage services and facilities.

5 (c) Except for airport-related facilities and tax increment financing projects
 6 approved under Subchapter 30 of this chapter, "project" shall not include that
 7 portion of an endeavor devoted to the sale of goods at retail or that portion of
 8 an endeavor devoted to housing which does not consist of the manufacture of
 9 housing;

10 (21) "Reclamation development fund" means the fund administered by the Kentucky
 11 Economic Development Finance Authority to foster economic development on
 12 surface mining land;

13 (22) "Reclamation development project" means only that reconditioning of land affected
 14 by surface mining, which will directly promote and benefit an economic
 15 undertaking which constitutes a project under subsection (20) of this section;

16 (23) "Reclamation development plan" means a plan submitted to the Energy and
 17 Environment~~[Environmental and Public Protection]~~ Cabinet to show compliance
 18 with reclamation standards, and submitted to the Kentucky Economic Development
 19 Finance Authority to seek moneys from the reclamation development fund for a
 20 reclamation development project;

21 (24) "Secretary" means the chief executive officer and secretary of the Cabinet for
 22 Economic Development;

23 (25) "State" means the Commonwealth of Kentucky; and

24 (26) "Tax revenues" means any revenues received by the Commonwealth directly or
 25 indirectly as a result of the industrial improvement project, including state corporate
 26 income taxes, the limited liability entity tax imposed by KRS 141.0401, state
 27 income taxes paid by employees who work in the project, state property taxes, state

1 corporation license taxes, or state sales and use taxes.

2 ➔Section 192. KRS 154.10-010 is amended to read as follows:

3 (1) (a) The Kentucky Economic Development Partnership, a board governing the
4 Cabinet for Economic Development, is created and established, performing
5 essential governmental and public functions and purposes essential to
6 improving and promoting the health and general welfare of the people of the
7 Commonwealth through sustainable economic development, as prescribed in
8 KRS 154.01-020.

9 (b) The board shall have reorganization powers and authority as prescribed in
10 KRS 12.028 and shall constitute an administrative body as defined in KRS
11 12.010, but it and the cabinet shall not be subject to the reorganization by the
12 Governor, KRS Chapter 12 notwithstanding.

13 (c) The board shall serve as the governing body of the cabinet and shall exercise
14 all powers and authorities conferred upon it by statute, including, but not
15 limited to, the following functions:

- 16 1. Strategic planning;
- 17 2. Finance;
- 18 3. Business assistance;
- 19 4. Marketing and promotion;
- 20 5. Community development;
- 21 6. Workforce development;
- 22 7. Innovation; and
- 23 8. All economic development powers and authorities not specifically
24 conferred by statute to another agency or authority of state government.

25 (2) The board shall consist of thirteen (13)~~eleven (11)~~ voting members and two (2)
26 nonvoting members. The thirteen (13)~~eleven (11)~~ voting members shall consist of
27 the Governor, the secretary of the Finance and Administration Cabinet, the secretary

1 of the ~~Environmental and~~ Public Protection Cabinet, the secretary of the Energy
 2 and Environment Cabinet, the secretary of the Labor Cabinet, and eight (8)
 3 private sector members who shall be appointed by the Governor. The secretary of
 4 the Governor's Executive Cabinet shall serve as a voting member upon the absence
 5 of the Governor. The secretary of the Cabinet for Economic Development and the
 6 secretary of the Tourism, Arts and Heritage Cabinet shall serve as nonvoting
 7 members.

8 (3) By no later than thirty (30) days after July 14, 1992, the governing bodies of each of
 9 the following organizations shall meet and nominate two (2) persons from each of
 10 the six (6) Congressional districts of the Commonwealth and two (2) persons from
 11 the state at large, as candidates for the initial appointment as private sector members
 12 to the board:

- 13 (a) The Kentucky Industrial Development Council;
- 14 (b) The Associated Industries of Kentucky;
- 15 (c) The Kentucky State AFL-CIO;
- 16 (d) The Kentucky Farm Bureau Federation;
- 17 (e) The Kentucky Chamber of Commerce; and
- 18 (f) The Kentucky Economic Development Corporation.

19 (4) The Governor shall select the original eight (8) private sector members from the
 20 aggregation of the lists provided pursuant to subsection (3) with at least one (1)
 21 appointment being chosen from each organization's list and at least one (1)
 22 appointment being chosen from each Congressional district. After the initial
 23 appointments, appointments to vacancies shall be made in the same manner as
 24 prescribed in subsection (3) of this section, except that there is no requirement that
 25 the vacancy be filled from the same organization's list as the original appointment.

26 (5) The terms of office of the initial appointments of the private sector members to the
 27 board shall be staggered so that one-fourth (1/4) of all appointments shall expire

1 one (1), two (2), three (3), and four (4) years, respectively, from the date of their
2 appointment. All succeeding appointments shall be for four (4) years.

3 (6) In making appointments to the board, the Governor shall assure broad geographical
4 representation, as well as representation from the major sectors of Kentucky's
5 economy by leading executives with a knowledge of the problems of large and
6 small businesses, local economic development, and the transfer of research and
7 development from the laboratory to the marketplace. In filling vacancies, the
8 Governor shall attempt to assure the continuing representation on the board of broad
9 constituencies of Kentucky's economy, including manufacturing and agriculture.

10 (7) Vacancies on the board which may occur from time to time shall be filled as
11 follows:

12 (a) Any vacancy which occurs shall be filled for the unexpired term in accordance
13 with the procedures established for the original appointment.

14 (b) If any private sector member misses more than two (2) consecutive meetings
15 of the board, then that position shall be declared vacant and filled in
16 accordance with this section.

17 (8) The board shall meet quarterly and at other times upon call of the chairman or a
18 majority of the board.

19 (9) A quorum shall be a majority of the voting membership of the board.

20 (10) A quorum shall be required to organize and conduct the business of the board,
21 except that an affirmative vote of seven (7) or more members of the entire board
22 shall be required to fire the cabinet's secretary, and to adopt or amend the strategic
23 plan.

24 (11) Private sector members shall serve without compensation but shall be reimbursed
25 for all reasonable, necessary, and actual expenses.

26 (12) All existing duties, responsibilities, functions, personnel, programs, funds,
27 obligations, records, and real and personal property of the Cabinet for Economic

1 Development, as of July 14, 1992, shall be under the authority and control of the
2 board.

3 ➔Section 193. KRS 154.10-090 is amended to read as follows:

4 (1) The secretary and the directors of other state agencies and entities receiving state
5 funds for programs and activities which may affect state economic development
6 shall cooperate in the coordination of those programs and activities to achieve the
7 successful implementation of the state's strategic economic development plan.

8 (2) The board shall compile a list of state agencies and the extent to which they have
9 direct programmatic involvement in Kentucky's economic development systems.
10 This information shall be presented to the General Assembly before each even-
11 numbered-year regular session for the purpose of considering programmatic and
12 budget adjustments.

13 (3) Nothing in this chapter shall be construed as modifying, superseding, or repealing
14 any provisions of KRS Chapter 146, 151, 224, or 350, or the obligations of the
15 Energy and Environment~~Environmental and Public Protection~~ Cabinet under
16 those chapters.

17 ➔Section 194. KRS 154.12-203 is amended to read as follows:

18 (1) There is created the Kentucky Commission on Military Affairs. The commission
19 shall be a separate administrative body of state government within the meaning of
20 KRS Chapter 12.

21 (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

22 (a) Address matters of military significance to Kentucky;

23 (b) Maintain a cooperative and constructive relationship between state agencies
24 and the military entities in Kentucky, as necessary to ensure coordination and
25 implementation of unified, comprehensive, statewide strategies involved with,
26 or affected by, the military;

27 (c) Advise the Governor, the General Assembly, the Kentucky congressional

1 delegation, and other appropriate government officials on all matters in which
2 the military services and the Commonwealth have mutual interests, needs, and
3 concerns;

4 (d) Take action to promote and optimize state and Department of Defense
5 initiatives that will improve the military value of Kentucky's National Guard,
6 active, and reserve military force structure and installations, and improve the
7 quality of life for military personnel residing in the Commonwealth;

8 (e) Coordinate, as necessary, the state's interest in future Department of Defense
9 base closure and restructuring activities;

10 (f) Recommend state, federal, and local economic development projects which
11 would promote, foster, and support economic progress through military
12 presence in the Commonwealth;

13 (g) Promote and assist the private sector in developing spin-off investments,
14 employment, and educational opportunities associated with high-technology
15 programs and activities at Kentucky's military installations;

16 (h) Recommend to the Kentucky Economic Development Partnership the long-
17 range options and potential for the defense facilities located in Kentucky;

18 (i) Develop strategies to encourage military personnel to retire and relocate in
19 Kentucky and promote those leaving the military as a viable quality workforce
20 for economic development and industrial recruitment; and

21 (j) Allocate available grant money to qualified applicants to further the purposes
22 of paragraphs (a) to (i) of this subsection.

23 (3) The Kentucky Commission on Military Affairs shall consist of:

24 (a) The Governor, or his designated representative;

25 (b) The secretary of the Cabinet for Economic Development, or his designated
26 representative;

27 (c) The adjutant general of the Commonwealth, or his designated representative;

- 1 (d) The executive director of the Kentucky Long-Term Policy Research Center, or
- 2 his designated representative;
- 3 (e) The executive director of the Office of Homeland Security, or his designated
- 4 representative;
- 5 (f) The secretaries of the following cabinets, or their designees:
- 6 1. Finance and Administration;
- 7 2. Justice;
- 8 3. Energy and Environment~~Environmental and Public Protection~~;
- 9 4. Transportation;
- 10 5. Education;
- 11 6. Health and Family Services;~~and~~
- 12 7. Personnel;
- 13 8. Labor; and
- 14 9. Public Protection;
- 15 (g) The Attorney General, or his designee;
- 16 (h) The commissioner of the Department of Veterans' Affairs or a designee;
- 17 (i) The executive director of the Kentucky Commission on Military Affairs or a
- 18 designee;
- 19 (j) Kentucky's Civilian Aides to the Secretary of the United States Army;
- 20 (k) Two (2) members of the Kentucky General Assembly, with experience in or
- 21 an interest in military and defense-related issues, one (1) member to be
- 22 appointed by the President of the Senate, and one (1) member to be appointed
- 23 by the Speaker of the House;
- 24 (l) The commander or the designee of the commander of each of the following as
- 25 nonvoting, ex officio members:
- 26 1. Fort Campbell;
- 27 2. Fort Knox;

- 1 3. United States Army Recruiting Command;
- 2 4. Bluegrass Army Depot;
- 3 5. Louisville District of the United States Army Corps of Engineers;
- 4 6. The One Hundredth Training Division;
- 5 7. Naval Surface Warfare Center - Port Hueneme Division, Louisville
- 6 Detachment; and
- 7 8. Any other installation or organization, including but not limited to the
- 8 United States Coast Guard, Air Force, Navy, and Marine Corps, with a
- 9 military mission in the Commonwealth; and
- 10 (m) Five (5) at-large members appointed by the Governor who shall be residents
- 11 of counties significantly impacted by military installations.
- 12 (4) The terms of the five (5) at-large members shall be staggered so that two (2)
- 13 appointments shall expire at two (2) years, one (1) appointment shall expire at three
- 14 (3) years, and two (2) appointments shall expire at four (4) years, from the dates of
- 15 initial appointment.
- 16 (5) (a) The commission shall establish an executive committee consisting of the
- 17 secretary of the Cabinet for Economic Development, the adjutant general of
- 18 the Commonwealth, the commissioner of the Department of Veterans' Affairs,
- 19 the executive director of the Kentucky Commission on Military Affairs, and
- 20 the five (5) at-large members. The chair and vice chair of the Kentucky
- 21 Commission on Military Affairs shall be appointed by the Governor from
- 22 among the members of the executive committee.
- 23 (b) The chair and vice chair of the commission shall also serve as chair and vice
- 24 chair of the executive committee.
- 25 (c) The executive committee shall serve as the search committee for an executive
- 26 director of the commission and shall have any other authority the commission
- 27 delegates to it.

- 1 (6) The commission shall meet two (2) times each year, and may meet at other times on
 2 call of the chair, to establish the commission's goals and to review issues identified
 3 and recommendations made by the executive committee. A majority of the
 4 members shall constitute a quorum for the transaction of the commission's business.
 5 Members' designees shall have voting privileges at commission meetings.
- 6 (7) Members of the commission shall serve without compensation, but shall be
 7 reimbursed for their necessary travel expenses actually incurred in the discharge of
 8 their duties on the commission, subject to Finance and Administration Cabinet
 9 administrative regulations.
- 10 (8) The commission may establish committees or work groups composed of
 11 commission members and citizens as necessary to advise the commission in
 12 carrying out its responsibilities, duties, and powers. Citizen members of committees
 13 or work groups shall not have a vote.
- 14 (9) The commission may promulgate necessary administrative regulations as prescribed
 15 by KRS Chapter 13A.
- 16 (10) The commission may adopt bylaws and operating policies necessary for its efficient
 17 and effective operation.
- 18 (11) There shall be an executive director, who shall be the administrative head and chief
 19 executive officer of the commission, recommended by the executive committee,
 20 approved by the commission, and appointed by the Governor. The executive
 21 director shall have authority to hire staff, contract for services, expend funds, and
 22 operate the normal business activities of the commission.
- 23 (12) The Kentucky Commission on Military Affairs and its executive committee shall be
 24 an independent agency attached to the Office of the Governor.
- 25 ➔Section 195. KRS 154.12-205 is amended to read as follows:
- 26 (1) There is hereby created an independent, de jure corporation of the Commonwealth
 27 with all the general corporate powers incidental thereto which shall be known as the

1 "Bluegrass State Skills Corporation." The corporation shall be a political
 2 subdivision of the state and shall be attached to the Cabinet for Economic
 3 Development.

4 (2) The corporation is created and established to improve and promote the employment
 5 opportunities of the citizens of the Commonwealth by creating and expanding
 6 programs of skills training and education which meet the needs of business and
 7 industry.

8 (3) The corporation shall be governed by a board of directors consisting of eighteen
 9 (18) members, including the following six (6) ex officio members: the
 10 commissioner of the Department of Workforce Investment or his or her designee,
 11 the secretary of the Cabinet for Economic Development, the
 12 ~~secretary~~~~commissioner~~ of the~~Department of~~ Labor Cabinet, the president of the
 13 Council on Postsecondary Education, the secretary of the Education and Workforce
 14 Development Cabinet, and the president of the Kentucky Community and Technical
 15 College System. The twelve (12) other members shall be appointed by the
 16 Governor, including persons having knowledge and experience in business and
 17 industry, skills training, education, and minority employment; and at least one (1) of
 18 the twelve (12) members shall be appointed to represent labor organizations. Each
 19 member appointed by the Governor shall serve for a term of four (4) years, except
 20 that in making the initial appointments, the Governor shall appoint three (3)
 21 members to serve for one (1) year, three (3) members to serve for two (2) years,
 22 three (3) members to serve for three (3) years, and three (3) members to serve for
 23 four (4) years. All succeeding appointments shall be for a term of four (4) years.

24 (4) In the event of a vacancy, the Governor may appoint a replacement member who
 25 shall hold office during the remainder of the term so vacated.

26 (5) Any member may be removed from his appointment by the Governor for cause.

27 (6) The Governor shall designate a member of the board as its chairman.

1 (7) Members of the board of directors of the corporation, except for ex officio
 2 members, shall be entitled to compensation for their services in the amount of one
 3 hundred dollars (\$100) for each regular or special called meeting of the corporation,
 4 and all members shall be entitled to reimbursement for any actual and necessary
 5 expenses incurred in the performance of their duties.

6 (8) The board of directors of the corporation shall annually elect a vice chairman, a
 7 secretary, and a treasurer. The secretary shall keep a record of the proceedings of the
 8 corporation and shall be custodian of all books, documents, and papers filed with
 9 the corporation, and its official seal.

10 (9) The secretary of the Cabinet for Economic Development shall hire an executive
 11 director and establish his salary. The executive director shall be the chief
 12 administrative and operational officer of the corporation and shall direct and
 13 supervise its administrative affairs and general management subject to the policies,
 14 control, and direction of the board.

15 (10) All officers and employees of the corporation having access to its funding shall give
 16 bond to the corporation, at its expense, in the amount and with the surety as the
 17 board may prescribe.

18 ➔Section 196. KRS 154.20-105 is amended to read as follows:

19 Moneys in the reclamation development fund:

20 (1) Shall be used to foster reclamation development projects described in a reclamation
 21 development plan submitted to the authority as part of the application for
 22 reclamation development fund moneys, except that no money in the reclamation
 23 development fund shall be used for any reclamation development project until the
 24 reclamation development plan with respect to that project has been approved by the
 25 Energy and Environment~~{Environmental and Public Protection}~~ Cabinet pursuant
 26 to KRS Chapter 350; and

27 (2) May be made available to any person or entity, public or private, organized for

1 profit or not for profit; and

- 2 (3) Shall be made on the terms and conditions the authority, in its sole discretion,
3 determines to be reasonable, appropriate, and consistent with the purposes and
4 objectives of the authority and this chapter, which may include, but not be limited
5 to, the pledging of adequate security.

6 ➔Section 197. KRS 154.20-277 is amended to read as follows:

- 7 (1) Each investment fund manager shall cause the books and records of the investment
8 fund to be audited on an annual basis by an independent certified public accountant
9 in accordance with generally accepted accounting principles consistently applied.

10 The audit shall address the financial condition of the investment fund and
11 compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-
12 284. Each year the audit report shall be completed and certified by the independent
13 certified public accountant and delivered to the authority within ninety (90) days
14 after the end of the investment fund's fiscal year.

- 15 (2) The authority and the Department of Revenue, individually or collectively, may
16 examine, under oath, any of the officers, trustees, partners, members, managers,
17 directors, agents, employees, or investors of an investment fund regarding the
18 affairs and business of the investment fund. The authority and the Department of
19 Revenue, individually or collectively, may issue subpoenas and subpoenas duces
20 tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces
21 tecum may be reported to the Franklin Circuit Court, which shall enforce the
22 subpoena or subpoena duces tecum according to the rules of civil or criminal
23 procedure, as applicable.

- 24 (3) In addition to the audits required by this section, the authority or the Department of
25 Revenue may audit one (1) or more investment funds or investment fund managers
26 in any year on a random basis or for cause. The authority or the Department of
27 Revenue may also audit, for cause, any small business in which an investment fund

1 has made a qualified investment. Nothing in this section shall be construed to
2 prohibit the Department of Revenue from conducting any audit relating to the
3 administration or enforcement of the tax laws of the Commonwealth which the
4 Department of Revenue determines to be appropriate.

5 (4) If any audit conducted pursuant to this section discloses that an investment fund or
6 investment fund manager is not in compliance with the provisions of KRS 141.068
7 and KRS 154.20-250 to 154.20-284, the authority and the Department of Revenue
8 may consult with one another with respect to this noncompliance and the
9 Department of Revenue may exercise any of its powers to protect the
10 Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS
11 154.20-250 to 154.20-284.

12 (5) The authority may give an investment fund manager written notice of any
13 noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a
14 period of time the investment fund manager shall have to cure any noncompliance.
15 Failure to cure any such noncompliance within the period of time specified by the
16 authority may result in further action by the authority pursuant to this section.

17 (6) Nothing in this section shall be construed to prohibit the Department~~{Office}~~ of
18 Financial Institutions, Division of Securities, or any other securities regulatory
19 organization or body with jurisdiction over the activity of an investment fund or the
20 investment fund manager from conducting any examination or investigation relating
21 to the securities activities of the investment fund or investment fund manager. If any
22 examination or investigation conducted pursuant to any securities laws or
23 regulations discloses that an investment fund or investment fund manager is not in
24 compliance with any provision of any applicable securities laws or regulations, the
25 appropriate securities regulator may take whatever action it deems appropriate in
26 accordance with such securities laws and regulations to respond to the
27 noncompliance, notwithstanding any action the authority or the Department of

1 Revenue may or may not take with respect to the noncompliance.

2 ➔Section 198. KRS 154.20-530 is amended to read as follows:

3 The authority may cause to be established, by any number of natural persons not in excess
4 of fifteen (15), a Kentucky nonprofit corporation which shall have as its purpose the
5 insurance of mortgage loans entered into by and between lenders and persons or
6 corporations located in Kentucky and offering gainful employment to the inhabitants of
7 the Commonwealth. The mortgage insurance corporation shall not be deemed to have
8 been established for the purposes of this chapter unless and until its articles of
9 incorporation shall have been approved by the authority, and if so approved, no approval
10 by the Department~~[Office]~~ of Insurance shall be required. Such articles of incorporation,
11 in order to secure such approval, shall contain, inter alia, the following provisions:

- 12 (1) The corporation shall be designated "Kentucky Mortgage Insurance and Guarantee
13 Corporation;"
- 14 (2) No member of the board of directors of the insurance corporation shall receive any
15 emoluments for his services thereon, except that he may be reimbursed for
16 expenditures incurred by him in the performance of duties for the insurance
17 corporation;
- 18 (3) All assistance fees received by the insurance corporation shall be held in a trust
19 account in one or more banks and trust companies having a principal place of
20 business in the Commonwealth;
- 21 (4) The trust account shall be held for the security of the holders of mortgage loans or
22 bonds guaranteed by the insurance corporation, except that provision may be made
23 for the payment of expenses of the insurance corporation from the trust account or a
24 segregated portion thereof;
- 25 (5) The trust account shall be governed by a trust agreement entered into by and
26 between the insurance corporation and the trustee or trustees. Said trust agreement
27 shall contain such lawful provisions and limitations as may be deemed appropriate,

1 and may include a pledge of premiums and other moneys deposited in the fund to
 2 the payment of the obligations insured by the insurance corporation; and

- 3 (6) The trust agreement shall make appropriate provisions for the investment by the
 4 trustee or trustees of funds in the trust account for the benefit of the insurance
 5 corporation and of any claimants against the trust account. The moneys so pledged
 6 and thereafter received by the trust account shall be subject to the lien of such
 7 pledge without any further act, and the lien of such pledge shall be valid and
 8 binding against all parties in accordance with the terms of the trust agreement.

9 ➔Section 199. KRS 154.27-010 is amended to read as follows:

10 As used in this subchapter:

- 11 (1) "Activation date" means the date on which an approved company begins incurring
 12 recoverable costs or engaging in recoverable activity pursuant to the tax incentive
 13 agreement. The activation date shall be set forth in the tax incentive agreement and
 14 shall be a date within five (5) years of the date of final approval of the tax incentive
 15 agreement. The authority may extend the five (5) year period to no more than seven
 16 (7) years upon written application for an extension by the approved company. To
 17 implement the activation date, the approved company shall notify the authority of
 18 its intent to activate the tax incentives authorized in the tax incentive agreement.
 19 The activation date shall apply to all incentives included in the tax incentive
 20 agreement regardless of whether the approved company has met the requirements to
 21 receive all incentives at that time. If the approved company does not implement the
 22 activation date before the date established in the tax incentive agreement, the
 23 activation date shall be the date established in the tax incentive agreement;
- 24 (2) "Affiliate" has the same meaning as in KRS 154.22-010;
- 25 (3) (a) "Alternative fuel facility" means a facility located in Kentucky that is newly
 26 constructed on or after August 30, 2007, or an existing facility located in
 27 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,

1 after the new construction, retrofit, or upgrade, primarily produces for sale
 2 alternative transportation fuels. For a retrofit of an existing facility, the new
 3 modification or addition within the facility shall primarily produce alternative
 4 transportation fuel for sale.

5 (b) The alternative fuel facility may produce electricity as a by-product if the
 6 primary purpose for which the facility is constructed, retrofitted, or upgraded,
 7 and the primary function of the facility remains the production and sale of
 8 alternative transportation fuels;

9 (4) "Alternative transportation fuels" has the same meaning as in KRS 152.715;

10 (5) "Approved company" means a corporation, limited liability company, partnership,
 11 registered limited liability partnership, sole proprietorship, business trust, or any
 12 other entity approved for incentives for an eligible project;

13 (6) "Authority" means the Kentucky Economic Development Finance Authority
 14 established by KRS 154.20-010;

15 (7) "Base amount" means the tons of coal purchased and used or severed and used by
 16 the approved company as feedstock for an eligible project during the twelve (12)
 17 months prior to the month in which the approved company first begins receiving
 18 incentives under KRS 143.024 and 154.27-060, that were subject to the tax imposed
 19 by KRS 143.020;

20 (8) "Biomass resources" has the same meaning as in KRS 152.715;

21 (9) (a) "Capital investment" means:

22 1. Obligations incurred for labor and to contractors, subcontractors,
 23 builders, and materialmen in connection with the acquisition,
 24 construction, installation, equipping, upgrading, or retrofitting of an
 25 eligible project;

26 2. The cost of acquiring land or rights in land and any cost incident thereto,
 27 including recording fees;

- 1 3. The cost of contract bonds and of insurance of all kinds that may be
- 2 required or necessary during the course of acquisition, construction,
- 3 installation, equipping, upgrading, or retrofitting of an eligible project
- 4 which is not paid by the contractor or otherwise provided;
- 5 4. All costs of architectural and engineering services, including test
- 6 borings, surveys, estimates, plans, specifications, preliminary
- 7 investigations, supervision of construction, and the performance of all
- 8 the duties required by or consequent upon the acquisition, construction,
- 9 installation, equipping, upgrading, or retrofitting of an eligible project;
- 10 5. All costs required to be paid under the terms of any contract for the
- 11 acquisition, construction, installation, equipping, upgrading, or
- 12 retrofitting of an eligible project; and
- 13 6. All other costs of a nature comparable to those described in this
- 14 subsection.
- 15 (b) "Capital investment" does not include costs described in paragraph (a) of this
- 16 subsection that are paid for with funds received from the federal government
- 17 or that are reimbursed by the federal government;
- 18 (10) "Carbon capture ready" means planning for or anticipating capture of carbon
- 19 dioxide in a manner to facilitate continued operation of the facility in compliance
- 20 with applicable federal requirements;
- 21 (11) "Center for Applied Energy Research" means the University of Kentucky Center for
- 22 Applied Energy Research;
- 23 (12) "Commonwealth" means the Commonwealth of Kentucky;
- 24 (13) "Construction period" means the period beginning with the activation date of the
- 25 eligible project and ending on a date set forth in the tax incentive agreement, which
- 26 shall be no later than five (5) years from the activation date;
- 27 (14) "Department" means the Department of Revenue;

1 (15) "Eligible project" means:

2 (a) An alternative fuel facility or a gasification facility meeting the investment
3 requirements of KRS 154.27-020; or

4 (b) A renewable energy facility meeting the investment requirements of KRS
5 154.27-020;

6 (16) "Estimated labor component" means the projected percentage of the total capital
7 investment attributable to labor;

8 (17) (a) "Facility" means a single location within the Commonwealth at which
9 machinery and equipment are used in a manufacturing process that transforms
10 raw materials into a product with commercial value.

11 1. The facility shall include the physical plant structure where the
12 manufacturing process occurs and machinery and equipment within the
13 physical plant structure.

14 2. The facility may include:

15 a. On-site machinery and equipment used exclusively for processing
16 coal or other raw materials for use in the manufacturing process at
17 the facility;

18 b. For an alternative fuel facility or gasification facility, on-site power
19 station operations, if those operations are primarily used to
20 produce electricity for the facility;

21 c. On-site refining operations, if those operations are used
22 exclusively to refine and blend fuels produced by the facility; and

23 d. The in-state portion of a pipeline, including appurtenant facilities,
24 property rights, and easements, if the exclusive purpose of the
25 pipeline is to transport carbon dioxide from the facility to a point
26 of sale, storage, or other carbon management applications.

27 (b) "Facility" shall not include any mining operations;

1 (18) "Gasification process" means a process that converts any carbon-containing material
2 into a synthesis gas composed primarily of carbon monoxide and hydrogen;

3 (19) (a) "Gasification facility" means a facility located in Kentucky that is newly
4 constructed on or after August 30, 2007, or an existing facility located in
5 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,
6 after the new construction, retrofit, or upgrade, primarily produces for sale:

- 7 1. Alternative transportation fuels;
- 8 2. Synthetic natural gas;
- 9 3. Chemicals;
- 10 4. Chemical feedstocks; or
- 11 5. Liquid fuels;

12 from coal, waste coal, coal-processing waste, or biomass resources, through a
13 gasification process. For a retrofit of an existing facility, the new modification
14 or addition within the facility shall primarily produce one (1) or more of the
15 products set forth in this paragraph.

16 (b) The gasification facility may produce electricity as a by-product if the primary
17 purpose for which the facility is constructed, retrofitted, or upgraded, and the
18 primary function of the facility remains the production and sale of alternative
19 transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or
20 liquid fuels;

21 (20) "Kentucky gross profits" shall have the same meaning as in KRS 141.0401;

22 (21) "Kentucky gross receipts" shall have the same meaning as in KRS 141.0401;

23 ~~(22) ["Office" means the Governor's Office of Energy Policy created by KRS 152.712;~~

24 ~~(23)}~~ "Post-construction incentives" means the incentives available under KRS 154.27-
25 060 and 154.27-080;

26 ~~(23)~~~~(24)}~~ "Renewable energy facility" means a facility located in Kentucky that is newly
27 constructed on or after August 30, 2007, or an existing facility located in Kentucky

1 that is retrofitted or upgraded after August 30, 2007, and that, after the new
2 construction, retrofit, or upgrade, utilizes:

3 (a) Wind power, biomass resources, landfill methane gas, hydropower, or other
4 similar renewable resources to generate electricity in excess of one (1)
5 megawatt for sale to unrelated entities; or

6 (b) Solar power to generate electricity in excess of fifty (50) kilowatts for sale to
7 unrelated entities.

8 For a retrofit of an existing facility, the modification or addition shall primarily
9 result in the production of electricity as described in paragraph (a) or (b) of this
10 subsection;

11 ~~(24)~~~~(25)~~ "Resident" shall have the same meaning as in KRS 141.010;

12 ~~(25)~~~~(26)~~ "Retrofit" means a modification or addition to an existing facility that results
13 in the production of a new and different product or uses a new or different process
14 to produce the same product at the facility. Modifications or additions to a facility
15 that maintain, restore, mend, or repair a facility shall not be considered a retrofit of
16 the facility, and shall not be considered part of the capital investment if undertaken
17 at the same time as a retrofit;

18 ~~(26)~~~~(27)~~ "Synthetic natural gas" has the same meaning as in KRS 152.715;

19 ~~(27)~~~~(28)~~ "Tax incentive agreement" means an agreement entered into in accordance
20 with KRS 154.27-040;

21 ~~(28)~~~~(29)~~ "Termination date" means a date established by the tax incentive agreement
22 that is no more than twenty-five (25) years from the activation date; and

23 ~~(29)~~~~(30)~~ "Upgrade" means an investment in an existing facility that results in an
24 increase in the productivity of the facility. Increased productivity shall be measured
25 in relation to the type of products that are required to be produced by that facility to
26 be an eligible project.

27 ➔Section 200. KRS 154.27-030 is amended to read as follows:

- 1 (1) A company with an eligible project may submit an application for incentives to the
2 authority prior to making any capital investment it will seek to recover.
- 3 (2) The application shall include:
 - 4 (a) The name of the applicant and identification of any affiliates of the applicant;
 - 5 (b) The type of eligible project;
 - 6 (c) A description of the location;
 - 7 (d) A full description of the eligible project scope, including but not limited to:
 - 8 1. A list and the status of permits, certificates, or approvals required by the
9 federal government, the Commonwealth, or any jurisdiction within the
10 Commonwealth;
 - 11 2. A description of the carbon capture readiness of the facility, if the
12 proposed eligible project is an alternative fuel facility or a gasification
13 facility;
 - 14 3. Any feasibility studies, including supporting documents;
 - 15 4. Anticipated sources of eligible project funding;
 - 16 5. The total anticipated capital investment and the time period over which
17 the capital investment will occur;
 - 18 6. The proposed feedstock and the estimated volume of feedstock use per
19 year;
 - 20 7. A description of the proposed products to be produced by the facility
21 and the process that will be used to produce the products;
 - 22 8. The planned capacity of the facility after construction, retrofit, or
23 upgrade;
 - 24 9. The estimated output of the facility upon completion; and
 - 25 10. A plan for and description of how the company will employ Kentucky
26 residents at the facility and how the company will ensure, to the extent
27 possible, that workers employed during construction, retrofit, or upgrade

1 of the facility are Kentucky residents. The plan shall include projected
2 numbers;

3 (e) Identification of the specific incentives sought;

4 (f) Payment of any applicable application fees required by the authority to offset
5 reasonable costs of reviewing and processing the application; and .

6 (g) Other information as required by the authority.

7 (3) The authority shall forward the application to the Department of
8 Revenue~~[department]~~ and the Department for Energy Development and
9 Independence~~[office]~~ for review and comment with a date by which comments
10 shall be provided back to the authority. The authority may forward the application
11 to the Center for Applied Energy Research for review and comment as well.

12 (4) (a) The authority shall review the application and shall verify that:

13 1. The applicant has met all of the statutory and regulatory requirements
14 established by this subchapter and regulations promulgated thereunder;

15 2. The applicant has secured or is in the process of securing all necessary
16 permits, certificates, or approvals required by the federal government,
17 the Commonwealth, or any jurisdiction within the Commonwealth;

18 3. The proposed facility is carbon capture ready, if the proposed facility is
19 an alternative fuel facility or gasification facility;

20 4. The company has a plan that includes a projected number of Kentucky
21 residents that will be employed during the construction, retrofit, or
22 upgrade of the facility and at the facility upon completion; and

23 5. Any other requirements established by the authority.

24 (b) The Department of Revenue and the Department for Energy Development
25 and Independence shall review the application and shall verify that the
26 company seeking approval and all affiliate companies are in good standing
27 with the department.

1 (c) The authority may engage the services of outside consultants to assist in the
 2 review of the application. Costs associated with the engagement of outside
 3 consultants shall be borne by the applicant.

4 (5) (a) Upon the earlier of:

5 1. The receipt of comments and recommendations from the Department
 6 for Energy Development and Independence~~[office]~~, the Department of
 7 Revenue~~[department]~~, and the Center for Applied Energy Research, if
 8 applicable; or

9 2. The expiration of the time period established by the authority for
 10 receiving comments pursuant to subsection (3) of this section;
 11 the authority may, through the adoption of a resolution, preliminarily approve
 12 an applicant for incentives under this subchapter.

13 (b) Preliminary approval shall be based upon representations of the applicant in
 14 the application and attachments as well as other information submitted with
 15 the application. The authority shall make a finding that, based upon the
 16 applicant's representations, the project appears to be eligible for incentives
 17 pursuant to this subchapter.

18 (c) Prior to final approval:

19 1. The applicant shall:

20 a. Provide all supportive data requested by the authority;
 21 b. Secure all required permits or take appropriate steps to do so; and
 22 c. Cooperate with the authority to obtain opinions or
 23 recommendations from any outside consultants; and

24 2. The authority shall, in consultation with the Department for Energy
 25 Development and Independence~~[office]~~ or any other entity, verify the
 26 representations of the applicant.

27 (d) 1. A preliminarily approved company seeking an advance disbursement

1 employment incentive under KRS 154.27-090 shall, prior to receiving
 2 final approval from the authority, provide to the authority a labor market
 3 analysis prepared by a public postsecondary education institution in the
 4 Commonwealth with knowledge of the labor market in the region in
 5 which the eligible project will be located.

6 2. The labor market analysis shall evaluate the construction market in the
 7 region where the proposed project is to be located and the estimated
 8 labor component of the proposed project. The public postsecondary
 9 education institution may consult with the Center for Applied Energy
 10 Research or the Department for Energy Development and
 11 Independence~~[office]~~ in determining the types of laborers required for
 12 the construction, retrofit, or upgrade of the eligible facility.

13 3. The labor market analysis shall include an estimate of the percentage of
 14 the estimated labor component that constitutes wages to be paid to
 15 Kentucky residents.

16 (e) Based upon all of the information available, the authority may, through
 17 adoption of a resolution, give its final approval and authorize the execution of
 18 a tax incentive agreement to be negotiated pursuant to KRS 154.27-040.

19 (6) The authority may request any materials and make any inquiries concerning an
 20 application that the authority deems necessary.

21 (7) The actual capital investment that may be recovered and percentages of each
 22 incentive that an approved company may receive shall be negotiated between the
 23 approved company and the authority and shall not exceed the limitations established
 24 by KRS 154.27-020.

25 (8) The General Assembly recognizes that the incentives offered under this subchapter
 26 include the possibility of the release of incentives to approved companies prior to
 27 construction completion, and that the release of these incentives may present more

1 risk for the Commonwealth. The authority is directed to consider the possible
 2 increased risk to the Commonwealth when negotiating tax incentive agreements that
 3 include incentives prior to construction completion, and to incorporate repayment or
 4 similar remedy provisions in the tax incentive agreement to the extent the authority
 5 determines such provisions are necessary to protect the investment made by the
 6 Commonwealth if the approved company fails to comply with the terms of the tax
 7 incentive agreement.

8 (9) The authority and the approved company shall enter into a tax incentive agreement
 9 in accordance with KRS 154.27-040.

10 (10) The authority, with input from the Department for Energy Development and
 11 Independence~~[office]~~ and the Department of Revenue~~[department]~~, shall establish
 12 additional standards and requirements for the application process through the
 13 promulgation of administrative regulations in accordance with KRS Chapter 13A.
 14 The standards shall include but not be limited to the creditworthiness of eligible
 15 companies and the likelihood of economic success of the economic development
 16 project.

17 ➔Section 201. KRS 154.27-040 is amended to read as follows:

18 The terms and conditions of the tax incentive agreement shall be negotiated between the
 19 authority and the approved company. The tax incentive agreement may include one (1) or
 20 more of the incentives available under this subchapter or any combination of the
 21 incentives as negotiated between the authority and the approved company. The tax
 22 incentive agreement shall include but not be limited to the following provisions:

- 23 (1) The duties and responsibilities of the parties;
- 24 (2) The specific identification of incentives included in the tax incentive agreement,
 25 including the permissible percentage recovery under each included incentive;
- 26 (3) A detailed description of the eligible project, including an estimate of the capital
 27 investment;

- 1 (4) If the eligible project is an alternative fuel facility or a gasification facility, a
2 requirement that the facility be carbon capture ready;
- 3 (5) The minimum capital investment required and the maximum capital investment that
4 may be recovered;
- 5 (6) The time within which the minimum capital investment shall be made;
- 6 (7) The activation date and the termination date. The agreement shall commence on the
7 activation date and shall terminate upon the earlier of full receipt of the maximum
8 amount of incentives by the approved company or twenty-five (25) years from the
9 activation date;
- 10 (8) A target percentage of the workforce that is Kentucky residents during the
11 construction, retrofit, or upgrade of the facility, and at the facility upon completion
12 of construction;
- 13 (9) If the wage assessment permitted by KRS 154.27-080 is included, the percentage
14 rate at which the assessment shall be imposed;
- 15 (10) If the advance disbursement employment incentive permitted by KRS 154.27-090 is
16 included:
 - 17 (a) The estimated labor component and the estimated Kentucky resident factor as
18 determined under KRS 154.27-090;
 - 19 (b) A schedule for the disbursement of funds during the construction period;
 - 20 (c) A provision that requires a reduction or adjustment in the receipt of post-
21 construction incentives for which the approved company is eligible under the
22 tax incentive agreement until the advance disbursement has been repaid by the
23 approved company;
 - 24 (d) A provision addressing an alternate payment method if the incentives are not
25 sufficient to repay the advance disbursement; and
 - 26 (e) A repayment schedule that includes the amount of reduction, the incentives
27 the reduction shall apply to, the amount of interest due, the time period over

1 which the advance disbursement amount shall be recouped, and the amount
2 that shall be recouped in each year. To the extent possible, the repayment
3 schedule shall include uniform incremental payments;

4 (11) That the approval of the company is not a guarantee of incentives and that actual
5 receipt of the incentives shall be contingent on the approved company filing the
6 required requests for incentives and meeting the requirements established by the tax
7 incentive agreement and by KRS 139.517, 141.421, 143.024, 154.27-060, 154.27-
8 070, 154.27-080, and 154.27-090 that apply to the incentives included;

9 (12) That the approved company shall provide the authority with documentation of
10 capital expenditures in a manner acceptable to the authority;

11 (13) Negotiated terms relating to repayment or similar remedies for incentives received
12 prior to the completion of construction if the approved company fails to comply
13 with the terms of the tax incentive agreement;

14 (14) That, if the authority determines that the approved company has failed to comply
15 with any of its obligations under the tax incentive agreement:

16 (a) The authority shall have the right to suspend the incentives available to the
17 approved company;

18 (b) Both the authority and the department shall have the right to pursue any
19 remedy provided under the tax incentive agreement;

20 (c) The authority may terminate the tax incentive agreement; and

21 (d) Both the authority and the department may pursue any other remedy at law to
22 which it may be entitled;

23 (15) A requirement that the authority monitor the tax incentive agreement;

24 (16) A requirement that the approved company provide to the authority the information
25 necessary to monitor the tax incentive agreement and authorization for the authority
26 to share that information with the Department of Revenue~~[department]~~, the
27 Department for Energy Development and Independence~~[office]~~, or any other

entity the authority determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement; and

- (17) Any other provisions not inconsistent with this subchapter and determined to be necessary or appropriate by the parties to the tax incentive agreement.

→Section 202. KRS 154.27-050 is amended to read as follows:

- (1) The department may release to an approved company any sales tax incentives under KRS 139.517 and 154.27-070 after review of the request for incentives required by KRS 139.517 and determination of the amount due regardless of whether the minimum capital investment has been made as required by the tax incentive agreement.

- (2) The authority shall monitor all tax incentive agreements. The authority may seek assistance from the Department for Energy Development and Independence~~[office]~~, the Department of Revenue~~[department]~~, the Center for Applied Energy Research, or other entities or individuals in performing its monitoring functions.

- (3) The department shall track the amount of revenues released and incentives received for each eligible project under each tax incentive agreement and shall provide the authority the information upon request.

- (4) On or before December 1, 2008, and every December 1 thereafter, the authority and the department shall jointly prepare a report for the Legislative Research Commission. The report shall include a list of all companies with which tax incentive agreements have been entered into and a summary of the terms of each agreement, including the type of facility approved, product to be produced, estimated output upon completion, required minimum capital investment and maximum recovery, incentives approved by type of tax and amount, activation date, and termination date.

→Section 203. KRS 154.27-090 is amended to read as follows:

1 (1) An approved company may be eligible for the advance disbursement of a portion of
 2 the post-construction period incentives for which it has been approved. The amount
 3 of the advance disbursement shall be based on the employment of Kentucky
 4 residents during the construction of the facility, shall be negotiated with the
 5 authority as part of the tax incentive agreement, and shall not exceed the limitations
 6 established by this section.

7 (2) The authority shall compute the maximum amount of the advance disbursement
 8 employment incentive as follows:

9 (a) The base amount shall equal the total capital investment specified in the tax
 10 incentive agreement multiplied by the labor intensity factor as determined in
 11 paragraph (c) of this subsection;

12 (b) The base amount shall then be multiplied by the Kentucky resident factor as
 13 determined in paragraph (d) of this subsection. The resulting amount shall be
 14 the maximum advance disbursement employment incentive that the authority
 15 may approve;

16 (c) The labor intensity factor shall be:

17 1. Twenty-five percent (25%), if the estimated labor component for the
 18 eligible project is greater than thirty percent (30%) of the total capital
 19 investment;

20 2. Twenty percent (20%), if the estimated labor component for the eligible
 21 project is greater than twenty-five percent (25%) but less than or equal
 22 to thirty percent (30%) of the total capital investment; or

23 3. Fifteen percent (15%), if the estimated labor component for the eligible
 24 project is equal to or less than twenty-five percent (25%) of the total
 25 capital investment; and

26 (d) The Kentucky resident factor shall be four percent (4%) multiplied by a
 27 fraction, the numerator of which shall be the estimated total gross wages that

1 will be paid to Kentucky residents who are working on the construction,
2 retrofit, or upgrade of the eligible project, and the denominator of which shall
3 be the estimated total gross wages that will be paid to all workers working on
4 the construction, retrofit, or upgrade of the eligible project.

5 (3) The tax incentive agreement shall include a schedule for the disbursement of the
6 advance disbursement employment incentive during the construction period. In
7 negotiating the disbursement schedule, the authority shall consider the possible
8 increased risk to the Commonwealth associated with the disbursement of funds
9 prior to construction completion.

10 (4) (a) The approved company shall repay the advance disbursement through a
11 reduction in the post-construction period incentive amounts it would
12 otherwise receive. The amount by which the post-construction period
13 incentive amounts are reduced shall be applied as a credit against the amount
14 owed by the approved company.

15 (b) The amount of the annual reduction, the incentives the reduction shall apply
16 to, interest due, the time period over which the advance disbursement amount
17 shall be recouped, and alternate payment methods if incentives are not
18 sufficient to repay the advance disbursement shall be negotiated between the
19 authority and the approved company as part of the tax incentive agreement.

20 (c) The repayment schedule included in the tax incentive agreement shall require
21 uniform incremental payments, to the extent possible, and shall continue until
22 the entire advance disbursement amount has been repaid by the approved
23 company.

24 (d) The tax incentive agreement shall include a provision addressing an alternate
25 method for payment if incentives are not sufficient to repay the advance
26 disbursement.

27 (e) The total post-construction incentive payments for which an approved

company is eligible shall be tracked by the department. That portion of the incentive amounts identified in the tax incentive agreement as being devoted to the repayment of the advance disbursement amount shall be credited against the balance due from the approved company and shall not be paid to or retained by the approved company.

(f) The department shall forward the amounts credited to the repayment of the advance disbursement amount to the Cabinet for Economic Development, Department of Financial Incentives for deposit in the Energy Projects Economic Development Bond Pool.

(g) During the period for which any portion of the post-construction incentive payments are being credited toward the advance disbursement amount, the approved company shall, at the direction of the authority or the department, file all required requests for incentives, submit all required remittances, make all required tax payments, and provide to the department and the authority any information that would normally be required for the approved company to receive the incentives.

(5) The authority may, for purposes of administering the provisions of this section, solicit information or consultation from one (1) or more of the following sources:

(a) The Department for Energy Development and Independence~~[office]~~;

(b) The Center for Applied Energy Research;

(c) The Department for Workforce Investment; or

(d) Any public postsecondary education institution within the Commonwealth.

➔Section 204. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the

- 1 secondary wood products industry as provided for in KRS 154.47-055;
- 2 (2) Reviewing and recommending to the Cabinet for Economic Development the
- 3 approval of proposals to establish business networks for businesses and industries
- 4 engaged in any value-added processing of raw wood products or the manufacturing
- 5 of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet
- 6 for Economic Development to promote the development of business networks
- 7 among secondary wood products businesses and industries;
- 8 (3) Advising the Energy and Environment~~[Environmental and Public Protection]~~
- 9 Cabinet on regulatory matters which impact the economic competitiveness and
- 10 development of the state's secondary wood products industry;
- 11 (4) Advising the ~~[Department of]~~Labor Cabinet regarding modifications to the state
- 12 workers' compensation laws in an effort to make Kentucky's secondary wood
- 13 products industry more competitive;
- 14 (5) Advising the Finance and Administration Cabinet regarding procurement of
- 15 Kentucky-made secondary wood products by state agencies, including the
- 16 procurement of these products by the Kentucky Department of Parks as part of any
- 17 proposed state parks renovation projects;
- 18 (6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from
- 19 any public or private source, including, but not limited to, general fund
- 20 appropriations of the Commonwealth of Kentucky, grants or contributions of
- 21 money, property, labor, or other things of value to be used to carry out the
- 22 corporation's operations, functions, and responsibilities;
- 23 (7) Entering into contracts or agreements necessary or incidental to the performance of
- 24 its duties, functions, and responsibilities;
- 25 (8) Establishing benchmarks for the purpose of evaluating workforce training and
- 26 technology transfer programs applicable to the secondary wood products industry;
- 27 (9) Employing consultants and other persons as may be required in the judgment of the

1 board to be essential to the board's operations, functions, and responsibilities; and

2 (10) Promulgating administrative regulations, in accordance with KRS Chapter 13A,
3 governing its statutory powers, duties, and responsibilities.

4 ➔Section 205. KRS 154.47-075 is amended to read as follows:

5 (1) The Kentucky Division of Forestry shall develop and implement a program to
6 provide training and assistance to private woodland owners in best management
7 practices of forest development and sustainability. The training and assistance
8 program shall provide advice and assistance in matters relating to productivity,
9 management priorities, stewardship, planning, timber quality, forest improvement,
10 and proper ecological management.

11 (2) The board, in cooperation with the Kentucky Division of Forestry, the ~~{Department~~
12 ~~of }~~Labor Cabinet, and representatives from the University of Kentucky, Eastern
13 Kentucky University, and Morehead State University, shall develop and implement
14 a program to provide training and assistance in the area of worker safety for both
15 the primary and secondary wood industry.

16 ➔Section 206. KRS 154.47-110 is amended to read as follows:

17 (1) To encourage the continued development of Kentucky's primary and secondary
18 wood products industries, the Kentucky Forest Products Council is established.

19 (2) The council shall work with members of the primary and secondary wood products
20 industries and owners of forest resources to foster cooperation in the planning and
21 implementation of forest resources technical assistance and education efforts,
22 including, but not limited to, silvicultural best management practices, a forest
23 stewardship program, a master logger program, guidelines for water quality
24 management, forest fire prevention and other technical assistance and education
25 efforts focused on sustaining the development and productivity of the
26 Commonwealth's forest resources.

27 (3) The council shall be comprised of the following members:

- 1 (a) The secretary of the Energy and Environment~~Environmental and Public~~
2 ~~Protection~~] Cabinet or his designee, who shall serve ex officio;
- 3 (b) The director of the Division of Forestry or his designee;
- 4 (c) The chairman of the University of Kentucky Department of Forestry or his
5 designee;
- 6 (d) The chairman of the Kentucky Soil and Water Conservation Commission or
7 his designee;
- 8 (e) A representative of the Kentucky Forest Industries Association appointed by
9 the Governor;
- 10 (f) A representative of the primary wood products industry appointed by the
11 Governor;
- 12 (g) A representative of the secondary wood products industry appointed by the
13 Governor;
- 14 (h) A representative of the Kentucky Farm Bureau Federation appointed by the
15 Governor;
- 16 (i) A certified tree farmer or forest steward appointed by the Governor;
- 17 (j) A representative of the Kentucky paper products industry appointed by the
18 Governor; and
- 19 (k) Two representatives of public interest groups active in natural resource
20 conservation or environmental protection issues appointed by the Governor
21 from three (3) nominees, one (1) from the Cumberland Chapter of the Sierra
22 Club, one (1) from the Kentucky Resources Council; and one (1) from
23 Kentuckians for the Commonwealth.
- 24 (4) The initial term of office of members appointed by the Governor shall be staggered
25 so that the three (3) members shall serve for two (2) years each, two (2) members
26 shall serve for three (3) years each, and two (2) members shall serve a four (4) year
27 term. Subsequent appointments shall be for a term of four (4) years each. Vacancies

1 shall be filled in the same manner as for the original appointment. Members
 2 appointed by the Governor may be reappointed by the Governor for succeeding
 3 terms.

4 (5) The council chairperson shall be appointed from the membership by the Governor
 5 for a term of two (2) years and may be reappointed by the Governor for succeeding
 6 terms.

7 (6) The **Energy and Environment**~~Environmental and Public Protection~~ Cabinet shall
 8 provide staff services to the council.

9 ➔Section 207. KRS 154.48-010 is amended to read as follows:

10 As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

11 (1) "Activation date" means a date selected by an approved company in the tax
 12 incentive agreement at any time within a two (2) year period after the date of final
 13 approval of the tax incentive agreement by the authority;

14 (2) "Affiliate" means the following:

15 (a) Members of a family, including only brothers and sisters of the whole or half
 16 blood, spouse, ancestors, and lineal descendants of an individual;

17 (b) An individual, and a corporation more than fifty percent (50%) in value of the
 18 outstanding stock of which is owned, directly or indirectly, by or for that
 19 individual;

20 (c) An individual, and a limited liability company of which more than fifty
 21 percent (50%) of the capital interest or profits are owned or controlled,
 22 directly or indirectly, by or for that individual;

23 (d) Two (2) corporations which are members of the same controlled group, which
 24 includes and is limited to:

25 1. One (1) or more chains of corporations connected through stock
 26 ownership with a common parent corporation if:

27 a. Stock possessing more than fifty percent (50%) of the total

combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

- 1 (j) A fiduciary of a trust and a limited liability company more than fifty percent
2 (50%) of the capital interest, or the interest in profits, of which is owned
3 directly or indirectly, by or for the trust or by or for a person who is a grantor
4 of the trust;
- 5 (k) A corporation, a partnership, or a limited partnership if the same persons own:
6 1. More than fifty percent (50%) in value of the outstanding stock of the
7 corporation; and
8 2. More than fifty percent (50%) of the capital interest, or the profits
9 interest, in the partnership or limited partnership;
- 10 (l) A corporation and a limited liability company if the same persons own:
11 1. More than fifty percent (50%) in value of the outstanding stock of the
12 corporation; and
13 2. More than fifty percent (50%) of the capital interest or the profits in the
14 limited liability company;
- 15 (m) A partnership or limited partnership and a limited liability company if the
16 same persons own:
17 1. More than fifty percent (50%) of the capital interest or profits in the
18 partnership or limited partnership; and
19 2. More than fifty percent (50%) of the capital interest or the profits in the
20 limited liability company;
- 21 (n) An S corporation and another S corporation if the same persons own more
22 than fifty percent (50%) in value of the outstanding stock of each corporation,
23 S corporation designation being the same as that designation under the
24 Internal Revenue Code of 1986, as amended; or
- 25 (o) An S corporation and a C corporation, if the same persons own more than fifty
26 percent (50%) in value of the outstanding stock of each corporation; S and C
27 corporation designations being the same as those designations under the

1 Internal Revenue Code of 1986, as amended;

2 (3) "Approved company" means any eligible company for which the authority has
3 granted final approval of its application pursuant to KRS 154.48-025;

4 (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade
5 training costs and up to twenty-five percent (25%) of the eligible equipment costs
6 approved by the authority that an approved company may recover through the
7 inducements authorized by KRS 154.48-010 to 154.48-035;

8 (5) "Authority" means the Kentucky Economic Development Finance Authority created
9 by KRS 154.20-010;

10 (6) "Average hourly wage" means the wage and employment data published by the
11 Office of Employment and Training in the Department of Workforce Investment
12 within the Education and Workforce Development Cabinet collectively translated
13 into wages per hour based on a two thousand eighty (2,080) hour work year for the
14 following sectors:

15 (a) Manufacturing;

16 (b) Transportation, communications, and public utilities;

17 (c) Wholesale and retail trade;

18 (d) Finance, insurance, and real estate; and

19 (e) Services;

20 (7) "Commonwealth" means the Commonwealth of Kentucky;

21 (8) "Eligible company" means any entity that undertakes an environmental stewardship
22 project;

23 (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training
24 costs expended after preliminary approval of the environmental stewardship project;

25 (10) "Eligible equipment costs" means:

26 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
27 builders, suppliers, deliverymen, and materialmen in connection with the

1 acquisition, construction, equipping, and installation of an environmental
2 stewardship project;

3 (b) The cost of contract bonds and of insurance of all kinds that may be required
4 or necessary during the course of acquisition, construction, equipping, and
5 installation of an environmental stewardship project which is not paid by the
6 vendor, supplier, deliveryman, contractor, or otherwise provided;

7 (c) All costs of architectural and engineering services, including estimates, plans
8 and specifications, preliminary investigations, and supervision of construction,
9 rehabilitation and installation, as well as for the performance of all the duties
10 required by or consequent upon the acquisition, construction, equipping, and
11 installation of an environmental stewardship project;

12 (d) All costs required to be paid under the terms of any contract for the
13 acquisition, construction, equipping, and installation of an environmental
14 stewardship project;

15 (e) All costs paid for by the approved company that are required for the
16 installation of utilities, including but not limited to water, sewer, sewer
17 treatment, gas, electricity, communications, and access to transportation, and
18 including off-site construction of the facilities necessary for implementation of
19 an environmental stewardship project; and

20 (f) All other costs of a nature comparable to those described in this subsection.

21 (11) "Eligible skills upgrade training costs" means:

22 (a) Fees or salaries required to be paid to instructors who are employees of the
23 approved company, instructors who are full-time, part-time, or adjunct
24 instructors with an educational institution, and instructors who are consultants
25 on contract with an approved company in connection with an occupational
26 training program sponsored by an approved company for its full-time
27 employees and specifically relating to an environmental stewardship project;

- 1 (b) Administrative fees charged by educational institutions in connection with an
- 2 occupational training program sponsored by an approved company for its full-
- 3 time employees and specifically relating to an environmental stewardship
- 4 project;
- 5 (c) The cost of supplies, materials, and equipment used exclusively in an
- 6 occupational training program sponsored by an approved company for its full-
- 7 time employees and specifically relating to an environmental stewardship
- 8 project;
- 9 (d) The cost of leasing a training facility where space is unavailable at an
- 10 educational institution or at the premises of an approved company in
- 11 connection with an occupational training program sponsored by an approved
- 12 company for its full-time employees and specifically relating to an
- 13 environmental stewardship project;
- 14 (e) Employee wages to be paid in connection with an occupational training
- 15 program sponsored by an approved company for its full-time employees and
- 16 specifically relating to an environmental stewardship project;
- 17 (f) Travel expenses paid by the approved company as incurred by its full-time
- 18 employees resulting directly from the costs of transportation, lodging and
- 19 meals that are directly related to an occupational training program necessary
- 20 for the implementation of an environmental stewardship project; and
- 21 (g) All other costs of a nature comparable to those described in this subsection;
- 22 (12) "Employee benefits" means nonmandated costs paid by an eligible company for its
- 23 full-time employees for health insurance, life insurance, dental insurance, vision
- 24 insurance, defined benefits, 401(k) or similar plans;
- 25 (13) "Environmental stewardship product" means any new manufactured product or
- 26 substantially improved existing manufactured product that has a lesser or reduced
- 27 adverse effect on human health and the environment or provides for improvement to

human health and the environment when compared with existing products or competing products that serve the same purpose. Such products may include but are not limited to those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics disposed or consumed, but shall not include products that are the result of the production of energy or energy producing fuels;

(14) "Environmental stewardship project" or "project" means:

(a) The acquisition, construction, and installation of new equipment and, with respect thereto:

1. The construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys;
2. Installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities;
3. Off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;

All of which are utilized by an approved company or its affiliate to manufacture an environmental stewardship product as reviewed and recommended to the authority by the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet; and

(b) The provision of an occupational training program to provide the employees of an approved company or its affiliate with the knowledge and skills necessary to manufacture the new product;

(15) "Final approval" means the action taken by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of an environmental stewardship agreement between the authority and the approved company;

(16) "Full-time employee" means a person employed by an approved company for a

1 minimum of thirty-five (35) hours per week and subject to the state income tax
2 imposed by KRS 141.020;

3 (17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to
4 154.48-035;

5 (18) "Manufacturing" means any activity involving the manufacturing, processing,
6 assembling, or production of any property, including the processing that results in a
7 change in the condition of the property and any related activity or function, together
8 with the storage, warehousing, distribution, and related office facilities;

9 (19) "Preliminary approval" means the action taken by the authority designating an
10 eligible company as a preliminarily approved company, and conditioning final
11 approval by the authority upon satisfaction by the eligible company of the
12 requirements set forth in the preliminary approval;

13 (20) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
14 141.0401; and

15 (21) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
16 141.0401.

17 ➔Section 208. KRS 155.080 is amended to read as follows:

18 (1) Any financial institution may request membership in the corporation by making
19 application to the board of directors on such form and in such manner as said board
20 of directors may require, and membership shall become effective upon acceptance
21 of such application by said board.

22 (2) Except for short term loans which members may make at their discretion, each
23 member of the corporation shall make loans to the corporation as and when called
24 upon by it to do so on such terms and other conditions as shall be approved from
25 time to time by the board of directors, subject to the following conditions:

26 (a) All loan limits shall be established at the thousand-dollar (\$1,000) amount
27 nearest to the amount computed in accordance with the provisions of this

1 section.

2 (b) No loan to the corporation shall be made if immediately thereafter the total
3 amount of the obligations of the corporation would exceed twenty (20) times
4 the amount then paid in on the outstanding capital stock of the corporation.

5 (c) The total amount outstanding on loan to the corporation made by any member
6 at any one (1) time when added to the amount of the investment in the capital
7 stock of the corporation then held by such member shall not exceed:

8 The following limit, to be determined as of the time such member
9 becomes a member on the basis of the audited balance sheet of such member
10 at the close of its fiscal year immediately preceding its application for
11 membership, or, in the case of an insurance company, its last annual statement
12 to the commissioner~~executive director~~ of insurance; two percent (2%) of the
13 capital and surplus of commercial banks and trust companies; one percent
14 (1%) of the total outstanding loans made by a building and loan association:
15 provided, however, that any business development corporation created
16 pursuant to this section, KRS 155.010 and 155.090 may in its articles of
17 incorporation, or by appropriate amendment thereto, provide that the loan
18 limit of a building and loan association member shall be only one-half of one
19 percent (0.5%) of the total outstanding loans made by such building and loan
20 association member; one percent (1%) of the capital and unassigned surplus of
21 stock insurance companies, except fire insurance writing companies; one
22 percent (1%) of the unassigned surplus of mutual insurance companies, except
23 fire insurance writing companies; one-tenth of one percent (0.1%) of the
24 assets of fire insurance writing companies; and such limits as may be
25 approved by the board of directors of the corporation for other financial
26 institutions.

27 ➔Section 209. KRS 155.160 is amended to read as follows:

1 The corporation shall be subject to the examination of the commissioner~~[executive~~
 2 ~~director]~~ of the Department~~[Office]~~ of Financial Institutions, and shall make reports of its
 3 condition not less often than annually to said commissioner~~[executive director]~~, who in
 4 turn shall make copies of such reports available to the commissioner~~[executive director]~~
 5 of insurance and to the Governor. The corporation shall also furnish such other
 6 information as may from time to time be required by the Secretary of State.

7 ➔Section 210. KRS 160.325 is amended to read as follows:

8 (1) In an effort to reduce the rising energy costs that are straining school budgets, on or
 9 before January 1, 2010, each board of education shall enroll in the Kentucky Energy
 10 Efficiency Program that is offered by the Kentucky Pollution Prevention Center at
 11 the University of Louisville in order to obtain information regarding the potential
 12 energy savings for every board-owned and board-operated facility.

13 (2) The Kentucky Pollution Prevention Center may prioritize the provision of
 14 assistance and development of energy management plans based upon available
 15 resources.

16 (3) On or before December 1, 2011, and on or before December 1 of each year
 17 thereafter, the Kentucky Pollution Prevention Center shall file a report for the
 18 preceding fiscal year with the Department for Energy Development and
 19 Independence~~[Governor's Office of Energy Policy]~~ and the Legislative Research
 20 Commission. The report shall include:

21 (a) The number of boards of education enrolled in the Kentucky Energy
 22 Efficiency Program;

23 (b) The status of the development of energy management plans by those boards of
 24 education and anticipated savings to be obtained by those plans; and

25 (c) The amount and disposition of grants provided by the Department for Energy
 26 Development and Independence~~[Governor's Office of Energy Policy]~~ and any
 27 state appropriations for support of the Kentucky Energy Efficiency Program.

1 ➔Section 211. KRS 162.060 is amended to read as follows:

2 The chief state school officer shall be furnished a copy of all plans and specifications for
 3 new public school buildings contemplated by boards of education and for all additions to
 4 or alterations of old buildings. He shall examine or cause to be examined all such plans
 5 and specifications and shall approve or disapprove them in accordance with the rules and
 6 regulations of the Kentucky Board of Education. Plan reviews for conformance with the
 7 Uniform State Building Code shall be conducted only by the Department~~{Office}~~ of
 8 Housing, Buildings and Construction. No board of education may award a contract for the
 9 erection of a new building or contract for an addition to or alteration of an old building
 10 until the plan has been approved by the chief state school officer.

11 ➔Section 212. KRS 164.2842 is amended to read as follows:

12 (1) (a) The spouse, regardless of age, and any child of a permanently and totally
 13 disabled law enforcement officer, firefighter, or volunteer firefighter injured
 14 while in active service or in training for active service, who is over the age of
 15 seventeen (17) and under the age of twenty-three (23) shall not be required to
 16 pay any matriculation or tuition fee upon his admission to any state-supported
 17 university, community college, or vocational training institution for a period
 18 not in excess of thirty-six (36) months in order to obtain a diploma, nor in
 19 excess of the lesser number of months required for a certificate of completion.

20 (b) For the spouse or child to be entitled to benefits under this section, the
 21 disabled law enforcement officer, firefighter, or volunteer firefighter shall be
 22 rated permanently and totally disabled for pension purposes or one hundred
 23 percent (100%) disabled for compensation purposes by the Kentucky Justice
 24 and Public Safety Cabinet, the appropriate city or county law enforcement
 25 agency which employed the disabled, the administrative agency for the fire
 26 department or fire protection district recognized for funding under KRS
 27 95A.262, or the administrative agency having jurisdiction over any paid

1 firefighters of all counties and cities of all classes, or if deceased, the claim to
 2 benefits is to be based on the rating held by the law enforcement officer,
 3 firefighter, or volunteer firefighter at the time of death. The parent's or
 4 spouse's service and rating shall be evidenced by certification from the records
 5 of the Kentucky Justice and Public Safety Cabinet, the appropriate local law
 6 enforcement agency, the administrative agency for the fire department or fire
 7 protection district recognized for funding under KRS 95A.262, or the
 8 administrative agency having jurisdiction over any paid firefighters of all
 9 counties and cities of all classes.

10 (c) In the absence of certification of permanent and total disability by the
 11 Kentucky Department~~[Office]~~ of Workers' Claims, the Kentucky Justice and
 12 Public Safety Cabinet, the appropriate local law enforcement agency, the
 13 administrative agency for the fire department or fire protection district
 14 recognized for funding under KRS 95A.262, or the administrative agency
 15 having jurisdiction over any paid firefighters of all counties and cities of all
 16 classes, medical evidence showing permanent and total disability or the
 17 existence of permanent and total disability for a period of at least thirty (30)
 18 days immediately prior to death may be accepted, if this evidence is signed by
 19 a physician licensed to practice or an official of an accredited medical
 20 hospital.

21 (d) The parent-child relationship shall be shown by birth certificate, legal
 22 adoption papers, or other documentary evidence. The spousal relationship
 23 shall be shown by a marriage certificate or other documentary evidence.

24 (e) To entitle a spouse or child to benefits under this section the disabled law
 25 enforcement officer, firefighter, or volunteer firefighter shall have been a
 26 resident of the Commonwealth of Kentucky upon becoming a law
 27 enforcement officer, firefighter, or volunteer firefighter.

1 (2) (a) The spouse, regardless of age, and any child of a person who was an employee
 2 participating in a state-administered retirement system and not otherwise
 3 covered by subsection (1) of this section and who was disabled as a result of a
 4 duty-related injury as described in KRS 61.621, who is over the age of
 5 seventeen (17) and under the age of twenty-three (23) shall not be required to
 6 pay any matriculation or tuition fee upon his admission to any state-supported
 7 university, community college, or vocational training institution for a period
 8 not in excess of thirty-six (36) months in order to obtain a diploma, nor in
 9 excess of the lesser number of months required for a certificate of completion.

10 (b) The parent-child relationship shall be shown by birth certificate, legal
 11 adoption papers, or other documentary evidence. The spousal relationship
 12 shall be shown by a marriage certificate or other documentary evidence.

13 (3) The marriage of an eligible child shall not serve to deny full entitlement to the
 14 benefits provided in this section.

15 ➔Section 213. KRS 164.587 is amended to read as follows:

16 (1) The board of regents may provide medical and accident insurance for students
 17 enrolled in the Kentucky Community and Technical College System institutions.
 18 The president, on behalf of the system, may enter into a contract or contracts with
 19 one (1) or more sureties or insurance companies or their agents to provide
 20 appropriate medical and accident insurance coverage and to provide group coverage
 21 to all students enrolled in institutions within the system. The appropriate group
 22 coverage shall be issued by one (1) or more sureties or insurance companies
 23 authorized to transact business in this state, and the coverage shall be approved by
 24 the commissioner~~[executive director]~~ of insurance.

25 (2) The board shall approve policies upon recommendation of the president to
 26 implement the medical and accident insurance program. The board may fix the rate
 27 of fees for all postsecondary and adult students as it deems necessary to meet the

1 expense in whole or in part for appropriate student medical and accident insurance.

2 (3) The limits of liability and other appropriate provisions for student medical and
3 accident insurance authorized by this section shall be set by the board.

4 ➔Section 214. KRS 164.6903 is amended to read as follows:

5 As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

6 (1) "Agency contract" means an agreement in which a student-athlete authorizes a
7 person to negotiate or solicit on behalf of the student-athlete a professional-sports-
8 services contract or an endorsement contract;

9 (2) "Athlete agent" means an individual who enters into an agency contract with a
10 student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter
11 into an agency contract. The term includes an individual who represents to the
12 public that the individual is an athlete agent. The term does not include a spouse,
13 parent, sibling, grandparent, or guardian of the student-athlete or an individual
14 acting solely on behalf of a professional sports team or professional sports
15 organization;

16 (3) "Athletic director" means an individual responsible for administering the overall
17 athletic program of an educational institution or, if an educational institution has
18 separately administered athletic programs for male and female students, the athletic
19 program for males or the athletic program for females, as appropriate;

20 (4) "Contact" means a communication, direct or indirect, between an athlete agent and a
21 student-athlete, to recruit or solicit the student-athlete to enter into an agency
22 contract;

23 (5) "Office~~[Division]~~" means the Office~~[Division]~~ of Occupations and Professions in
24 the~~[Environmental and]~~ Public Protection Cabinet;

25 (6) "Endorsement contract" means an agreement under which a student-athlete is
26 employed or receives consideration to use on behalf of the other party any value that
27 the student-athlete may have because of publicity, reputation, following, or fame

1 obtained because of athletic ability or performance;

2 (7) "Intercollegiate sport" means a sport played at the collegiate level for which
3 eligibility requirements for participation by a student-athlete are established by a
4 national association for the promotion or regulation of collegiate athletics;

5 (8) "Person" means an individual, corporation, business trust, estate, trust, partnership,
6 limited liability company, association, joint venture, or government; governmental
7 subdivision, agency, or instrumentality; public corporation, or any other legal or
8 commercial entity;

9 (9) "Professional-sports-services contract" means an agreement under which an
10 individual is employed, or agrees to render services, as a player on a professional
11 sports team, with a professional sports organization, or as a professional athlete;

12 (10) "Record" means information that is inscribed on a tangible medium or that is stored
13 in an electronic or other medium and is retrievable in perceivable form;

14 (11) "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to
15 164.6935;

16 (12) "State" means a state of the United States, the District of Columbia, Puerto Rico,
17 the United States Virgin Islands, or any territory or insular possession subject to the
18 jurisdiction of the United States; and

19 (13) "Student-athlete" means an individual who engages in, is eligible to engage in, or
20 may be eligible in the future to engage in, any intercollegiate sport. If an individual
21 is permanently ineligible to participate in a particular intercollegiate sport, the
22 individual is not a student-athlete for purposes of that sport.

23 ➔Section 215. KRS 164.6905 is amended to read as follows:

24 (1) By acting as an athlete agent in this state, a nonresident individual appoints the
25 Office~~[Division]~~ of Occupations and Professions as the individual's agent for
26 service of process in any civil action in this state related to the individual's acting as
27 an athlete agent in this state.

1 (2) The office[division] may issue subpoenas for any material that is relevant to the
2 administration of KRS 164.6901 to 164.6935.

3 (3) The office[division] may promulgate administrative regulations in accordance with
4 KRS Chapter 13A that are necessary to carry out the provisions of KRS 164.6901 to
5 164.6935.

6 ➔Section 216. KRS 164.6909 is amended to read as follows:

7 (1) An applicant for registration shall submit an application for registration to the
8 office[division] in a form prescribed by the office[division]. An application filed
9 under this section is a public record. The application must be in the name of an
10 individual, and except as otherwise provided in subsection (2) of this section,
11 signed or otherwise authenticated by the applicant under penalty of perjury and state
12 or contain:

13 (a) The name of the applicant and the address of the applicant's principal place of
14 business;

15 (b) The name of the applicant's business or employer, if applicable;

16 (c) Any business or occupation engaged in by the applicant for the five (5) years
17 next preceding the date of submission of this application;

18 (d) A description of the applicant's:

19 1. Formal training as an athlete;

20 2. Practical experience as an athlete agent; and

21 3. Educational background relating to the applicant's activities as an athlete
22 agent;

23 (e) The names and addresses of three (3) individuals not related to the applicant
24 who are willing to serve as references;

25 (f) The name, sport, and last known team for each individual for whom the
26 applicant acted as an athlete agent during the five (5) years next preceding the
27 date of submission of the application;

1 (g) The names and addresses of all persons who are:

2 1. With respect to the athlete agent's business if it is not a corporation, the
3 partners, members, officers, managers, associates, or profit-sharers of
4 the business; and

5 2. With respect to a corporation employing the athlete agent, the officers,
6 directors, and any shareholder of the corporation having an interest of
7 five percent (5%) or greater;

8 (h) Whether the applicant or any person named pursuant to paragraph (g) of this
9 subsection has been convicted of a crime that, if committed in this state,
10 would be a crime involving moral turpitude or a felony, and identify the
11 crime;

12 (i) Whether there has been any administrative or judicial determination that the
13 applicant or any person named pursuant to paragraph (g) of this subsection has
14 made a false, misleading, deceptive, or fraudulent representation;

15 (j) Any instance in which the conduct of the applicant or any person named
16 pursuant to paragraph (g) of this subsection resulted in the imposition of a
17 sanction, suspension, or declaration of ineligibility to participate in an
18 interscholastic or intercollegiate athletic event on a student-athlete or
19 educational institution;

20 (k) Any sanction, suspension, or disciplinary action taken against the applicant or
21 any person named pursuant to paragraph (g) of this subsection arising out of
22 occupational or professional conduct; and

23 (l) Whether there has been any denial of an application for, suspension or
24 revocation of, or refusal to renew, the registration or licensure of the applicant
25 or any person named pursuant to paragraph (g) of this subsection as an athlete
26 agent in any state.

27 (2) An individual who has submitted an application for, and holds a certificate of,

1 registration or licensure as an athlete agent in another state, may submit a copy of
 2 the application and certificate in lieu of submitting an application in the form
 3 prescribed pursuant to subsection (1) of this section. The office[division] shall
 4 accept the application and the certificate from the other state as an application for
 5 registration in this state if the application to the other state:

6 (a) Was submitted in the other state within six (6) months next preceding the
 7 submission of the application in this state and the applicant certifies that the
 8 information contained in the application is current;

9 (b) Contains information substantially similar to or more comprehensive than that
 10 required in an application submitted in this state; and

11 (c) Was signed by the applicant under penalty of perjury.

12 ➔Section 217. KRS 164.6911 is amended to read as follows:

13 (1) Except as otherwise provided in subsection (2) of this section, the office[division]
 14 shall issue a certificate of registration to an individual who complies with KRS
 15 164.6909(1) or whose application has been accepted under KRS 164.6909(2).

16 (2) The office[division] may refuse to issue a certificate of registration if the
 17 office[division] determines that the applicant has engaged in conduct that has a
 18 significant adverse effect on the applicant's fitness to act as an athlete agent. In
 19 making the determination, the office[division] may consider whether the applicant
 20 has:

21 (a) Been convicted of a crime that, if committed in this state, would be a crime
 22 involving moral turpitude or a felony;

23 (b) Made a materially false, misleading, deceptive, or fraudulent representation in
 24 the application or as an athlete agent;

25 (c) Engaged in conduct that would disqualify the applicant from serving in a
 26 fiduciary capacity;

27 (d) Engaged in conduct prohibited by KRS 164.6925;

1 (e) Had a registration or licensure as an athlete agent suspended, revoked, or
 2 denied, or been refused renewal of registration or licensure as an athlete agent
 3 in any state;

4 (f) Engaged in conduct the consequence of which was that a sanction,
 5 suspension, or declaration of ineligibility to participate in an interscholastic or
 6 intercollegiate athletic event was imposed on a student-athlete or educational
 7 institution; or

8 (g) Engaged in conduct that significantly adversely reflects on the applicant's
 9 credibility, honesty, or integrity.

10 (3) In making a determination under subsection (2) of this section, the office~~[division]~~
 11 shall consider:

12 (a) How recently the conduct occurred;

13 (b) The nature of the conduct and the context in which it occurred; and

14 (c) Any other relevant conduct of the applicant.

15 (4) An athlete agent may apply to renew a registration by submitting an application for
 16 renewal in a form prescribed by the office~~[division]~~. An application filed under this
 17 section is a public record. The application for renewal must be signed by the
 18 applicant under penalty of perjury and must contain current information on all
 19 matters required in an original registration.

20 (5) An individual who has submitted an application for renewal of registration or
 21 licensure in another state, in lieu of submitting an application for renewal in the
 22 form prescribed pursuant to subsection (4) of this section, may file a copy of the
 23 application for renewal and a valid certificate of registration or licensure from the
 24 other state. The office~~[division]~~ shall accept the application for renewal from the
 25 other state as an application for renewal in this state if the application to the other
 26 state:

27 (a) Was submitted in the other state within six (6) months next preceding the

1 filing in this state and the applicant certifies the information contained in the
2 application for renewal is current;

3 (b) Contains information substantially similar to or more comprehensive than that
4 required in an application for renewal submitted in this state; and

5 (c) Was signed by the applicant under penalty of perjury.

6 (6) A certificate of registration or a renewal of registration is valid for one (1) year.

7 ➔Section 218. KRS 164.6913 is amended to read as follows:

8 (1) The office[division] may suspend, revoke, or refuse to renew a registration for
9 conduct that would have justified denial of registration under KRS 164.6911(2).

10 (2) The office[division] may deny, suspend, revoke, or refuse to renew a certificate of
11 registration or licensure only after proper notice and an opportunity for a hearing in
12 accordance with KRS Chapter 13B.

13 (3) The office[division] may issue a temporary certificate of registration while an
14 application for registration or renewal of registration is pending.

15 ➔Section 219. KRS 164.6915 is amended to read as follows:

16 An application for registration or renewal of registration must be accompanied by a fee in
17 the following amount:

18 (1) An initial application for registration fee determined by the office[division], not to
19 exceed three hundred dollars (\$300);

20 (2) An annual renewal fee determined by the office[division], not to exceed three
21 hundred dollars (\$300); or

22 (3) An application for registration fee based upon certification of registration or
23 licensure issued by another state determined by the office[division], not to exceed
24 two hundred fifty dollars (\$250).

25 ➔Section 220. KRS 164.6923 is amended to read as follows:

26 (1) An athlete agent shall retain the following records for a period of five (5) years:

27 (a) The name and address of each individual represented by the athlete agent;

- 1 (b) Any agency contract entered into by the athlete agent; and
- 2 (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation
- 3 of a student-athlete to enter into an agency contract.

4 (2) Records required to be retained in subsection (1) of this section are open to
5 inspection by the office~~[division]~~ during normal business hours.

6 ➔Section 221. KRS 164.6929 is amended to read as follows:

- 7 (1) An educational institution has a right of action against an athlete agent or a former
- 8 student-athlete for damages caused by a violation of KRS 164.6901 to 164.6935. In
- 9 an action under this section, the court may award to the prevailing party costs and
- 10 reasonable attorney's fees.
- 11 (2) Damages of an educational institution under subsection (1) of this section include
- 12 losses and expenses incurred because, as a result of the conduct of an athlete agent
- 13 or former student-athlete, the educational institution was injured by a violation of
- 14 KRS 164.6901 to 164.6935 or was penalized, disqualified, or suspended from
- 15 participation in athletics by a national association for the promotion and regulation
- 16 of athletics, by an athletic conference, or by reasonable self-imposed disciplinary
- 17 action taken to mitigate sanctions likely to be imposed by such an organization.
- 18 (3) A right of action under this section does not accrue until the educational institution
- 19 discovers or by the exercise of reasonable diligence would have discovered the
- 20 violation by the athlete agent or former student-athlete.
- 21 (4) Any liability of the athlete agent or the former student-athlete under this section is
- 22 several and not joint.
- 23 (5) The office~~[division]~~ may assess a civil penalty against an athlete agent not to exceed
- 24 twenty-five thousand dollars (\$25,000) for a violation of KRS 164.6901 to
- 25 164.6935.
- 26 (6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any
- 27 person under law or equity.

1 ➔ Section 222. KRS 164.760 is amended to read as follows:

2 The authority shall be subject to the supervision and examination of the
 3 Department~~{Office}~~ of Financial Institutions (or any successor), but shall not be deemed
 4 to be a banking organization nor required to pay a fee for any such supervision or
 5 examination. The authority shall file an annual audited financial report with the Governor
 6 within ninety (90) days after the close of the fiscal year. The annual audit shall be made
 7 by an independent certified public accountant. The annual audited financial report shall
 8 include but may not be limited to the financial condition of the authority as of the end of
 9 the fiscal year and the revenues and expenditures for the fiscal year. The fiscal year shall
 10 be from July 1 through June 30.

11 ➔ Section 223. KRS 164.948 is amended to read as follows:

12 As used in KRS -164.9481, 164.9483, and 164.9485, unless the context requires
 13 otherwise:

14 (1) "Campus" means all property owned, managed, or controlled by an institution of
 15 postsecondary education including but not limited to academic buildings; student
 16 housing and recreational facilities; residential facilities operated by any officially
 17 recognized student organization; all sections of public property such as streets,
 18 sidewalks, and parking facilities immediately contiguous to campus buildings; and
 19 remote facilities leased for use as classroom space or student living.

20 (2) "Campus security authority" means campus police, security officers, and any
 21 official at a postsecondary education institution who has significant responsibility
 22 for student and campus activities, including student discipline, student housing,
 23 student judicial affairs, and student life administration. Professional mental health,
 24 pastoral, and other licensed counselors when functioning in that capacity are not
 25 considered campus security authorities.

26 (3) "Crime" means murder, manslaughter, reckless homicide, assault, menacing,
 27 wanton endangerment, terroristic threatening, stalking, forcible or nonforcible sex

1 offenses, burglary, criminal damage to property, arson, theft, motor vehicle theft,
 2 robbery, weapons possession, and criminal attempt for any of the aforementioned
 3 crimes, and arrests for drug-related violations and liquor law violations.

4 (4) "Immediately" means before the last fire unit has left the scene in order for the state
 5 fire marshal~~[marshal's office]~~ to have the opportunity to speak with fire unit
 6 personnel before they leave the scene, but no later than two (2) hours following the
 7 time the fire or threat of fire is discovered. In the event of a minor fire to which the
 8 local fire officials are not called or do not respond, "immediately" means no later
 9 than one (1) hour following the discovery of the fire.

10 (5) "Postsecondary education institution" means any Kentucky public four (4) year
 11 institution or two (2) year community college or technical college that grants a
 12 postsecondary education credential, and any private college or university that is
 13 licensed by the Council on Postsecondary Education under KRS 164.945 to
 14 164.947.

15 ➔Section 224. KRS 164.9483 is amended to read as follows:

16 (1) Under the provisions of KRS Chapter 227, the state fire marshal shall have
 17 jurisdiction over all property in the state including property of public postsecondary
 18 education institutions and property of any private college or university that is
 19 licensed by the Council on Postsecondary Education as provided for by KRS
 20 164.945 to 164.947, insofar as it is necessary for the administration and
 21 enforcement of any duty imposed on the office by law or administrative regulation
 22 and all laws, ordinances, regulations, and orders designed to protect the public from
 23 fire loss.

24 (2) The state fire marshal or the state fire marshal's employee or appointee may,
 25 without delay or advance notice and at all reasonable hours of the day or night, enter
 26 in or upon any property defined under KRS 227.200 located on the campus to make
 27 an inspection, investigation, or any other action necessary for the purpose of

1 preventing fire loss or determining the origin of any fire.

2 (3) No person shall obstruct, hinder, or delay such an officer in the performance of his
3 or her duty.

4 (4) Upon learning of a fire or threat of fire, a campus security authority designated by
5 the college or university president to be responsible and liable for reporting shall
6 immediately report each fire or threat of fire to the state fire ~~marshal~~~~marshal's~~
7 ~~office~~ in Frankfort and the local deputies, assistants, and employees appointed
8 under KRS 227.230. No fire scene located on a campus shall be cleared or cleaned
9 without the express consent of the state fire marshal to do so after a representative
10 of the ~~state~~ fire ~~marshal~~~~marshal's office~~ has had an opportunity to investigate the
11 scene.

12 ➔Section 225. KRS 164A.585 is amended to read as follows:

13 (1) Subject to authorization by the General Assembly and KRS 164A.580, the
14 governing boards may make plans and specifications, advertise for bids, let
15 contracts or incur any financing commitments, either in the way of a charge against
16 institution funds or in the way of negotiations for issuance of revenue bonds, for any
17 capital construction projects involving the improvement of lands or the
18 construction, alteration, reconstruction, or major repair of any building or other
19 structure, or sewage disposal, water supply system or other utility system.

20 (2) Review of construction plans for conformance with the uniform state building code
21 shall be conducted by the ~~Department~~~~Office~~ of Housing, Buildings and
22 Construction. The board shall not approve any such project requiring its approval in
23 any instance where it finds that the project is not needed, or that the proposed
24 method of financing is not sound, or in cases where the project will exceed the
25 amount of the funds available therefor, or the work contemplated will be
26 insufficient to accomplish the purpose of the project, or that after providing for the
27 ordinary recurring expenses of administration and debt service and for payments

1 under existing allotments for extraordinary expenses and capital outlay, cash will
2 not be available in the Treasury to promptly pay for the work or that the work is to
3 be done by employees of the institution.

4 (3) Any capital construction project, except as provided in subsection (4) of this
5 section, shall be contracted for on a competitive bid basis, and the execution of such
6 contracts shall be approved and authorized by the board. When a capital
7 construction project has been approved as provided in this section, in whole or in
8 part, the board shall prepare the plans and specifications, advertise for bids, award
9 the contracts, supervise the construction and handle the financial negotiations.

10 (a) The governing board shall ensure that every invitation for bids or request for
11 proposals shall provide that an item equal to that named or described in the
12 specifications may be furnished.

13 (b) The specifications may identify a sole brand in cases where, in the written
14 opinion of the chief procurement officer, documented unique and valid
15 conditions require compatibility, continuity, or conformity with established
16 standards.

17 (c) An item shall be considered equal to the item named or described if, in the
18 opinion of the governing board and the design professional responsible for the
19 specifications:

- 20 1. It is at least equal in quality, durability, strength, design, and other
21 criteria deemed appropriate;
- 22 2. It will perform at least equally the function imposed by the general
23 design for the public work being contracted for or the material being
24 purchased; and
- 25 3. It conforms substantially to the detailed requirements for the item in the
26 specifications.

27 (4) A capital construction project, the total cost of completion of which will not exceed

two hundred fifty thousand dollars (\$250,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

→ Section 226. KRS 164A.840 is amended to read as follows:

Each fiscal year all license, permit, and acreage fees, collected by the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet and which are related to mining or minerals, shall be deposited to the credit of the mining and minerals trust fund in an amount not to exceed the annual debt service required for a mining and minerals building.

→ Section 227. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a State Board for Proprietary Education which shall~~be attached to the Environmental and Public Protection Cabinet, Division of Occupations and Professions, and shall~~ consist of eleven (11) voting members to be appointed by the Governor as follows:

(a) Three (3) members representative of privately owned educational institutions appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

(b) Three (3) members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; and

(c) Five (5) members representative of the public at large.

(2) The term of each member shall be four (4) years or until a successor is appointed. If a vacancy occurs on the board, a new member shall be appointed to serve the remainder of the unexpired term.

(3) The director of the Office~~[Division]~~ of Occupations and Professions in the~~Environmental and~~ Public Protection Cabinet shall serve as executive director of

1 the board. Members of the board shall annually elect one (1) of their number as
 2 chairman. The board may make all rules and regulations, including the
 3 establishment of fees and other charges consistent with the provisions of this
 4 chapter, as may be necessary to carry out the provisions and purposes of this
 5 chapter.

6 (4) The board shall hold meetings at least four (4) times a year and as frequently as it
 7 deems necessary at the times and places as the board may designate and the majority
 8 of the members shall constitute a quorum.

9 (5) The board may sue and be sued in its own name.

10 (6) The members of the board shall receive one hundred dollars (\$100) per day for each
 11 meeting attended and may be paid their travel and other expenses while employed
 12 upon the business of the board.

13 (7) The board shall administer the provisions of law pertaining to the conduct,
 14 operation, maintenance, and establishment of proprietary education institutions, and
 15 the activities of agents thereof when acting as such.

16 (8) The board shall have the power to subpoena witnesses and school records as it
 17 deems necessary.

18 ➔Section 228. KRS 174.410 is amended to read as follows:

19 (1) The secretary shall be responsible for controlling and regulating the movement of
 20 all radioactive materials and the intrastate transport of other hazardous materials
 21 transported by all carrier modes within the Commonwealth.

22 (2) The secretary, in consultation with the secretary of the Energy and
 23 Environment~~[Environmental and Public Protection]~~ Cabinet and the secretary of
 24 the Cabinet for Health and Family Services, shall adopt by reference or in entirety,
 25 the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as
 26 amended, to effectively carry out the intent of KRS 174.400 to 174.425.

27 (3) The cabinet and the Justice and Public Safety Cabinet shall cooperate with and

1 assist the *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet
 2 in implementing and enforcing the transportation provisions of any state hazardous
 3 waste regulations promulgated pursuant to KRS Chapter 224. The specific nature
 4 and details of the assistance effort shall be established by a formal cooperative
 5 agreement acceptable to the cabinets, and all activities shall occur in accordance
 6 with the terms of the agreement. The agreement shall address and include but not
 7 necessarily be limited to the following items:

- 8 (a) As a part of routine and periodic transportation checks and inspections, ensure
 9 that shipments of hazardous waste do not present a threat to the public or the
 10 environment; are accompanied by the required hazardous waste manifest or
 11 such other shipping or delivery documents as may be acceptable to the *Energy*
 12 *and Environment*~~[Environmental and Public Protection]~~ Cabinet; and comply
 13 with applicable shipping standards;
- 14 (b) Upon receipt of a written request from the secretary or general counsel of the
 15 *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet,
 16 actively conduct field investigations relating to the illegal, improper, or
 17 unauthorized transport of hazardous waste in the state. Such investigations
 18 may, at a minimum, include passive and active surveillance, apprehension,
 19 and reporting, with the scope and extent of each investigation to be previously
 20 agreed to by the involved cabinets;
- 21 (c) Compile and maintain such necessary records that may normally be required
 22 to carry out the provisions of this subsection and shall for minor violations
 23 report quarterly, and for major violations report weekly, to the *Energy and*
 24 *Environment*~~[Environmental and Public Protection]~~ Cabinet on the status of
 25 the interagency hazardous-waste transportation monitoring and enforcement
 26 activity for irregularities or violations;
- 27 (d) Provide any information, evidence, and other support, either in written form or

1 in the form of oral testimony during a legal proceeding or both, as may be
 2 required by the **Energy and Environment**~~Environmental and Public~~
 3 ~~Protection~~ Cabinet to fully carry out its statutory responsibility under the
 4 appropriate sections of KRS Chapter 224;

5 (e) The **Energy and Environment**~~Environmental and Public Protection~~ Cabinet
 6 shall, unless specifically agreed otherwise, have primary responsibility for
 7 initiating and conducting all legal proceedings arising from the terms and
 8 provisions of this subsection; and

9 (f) The **Energy and Environment**~~Environmental and Public Protection~~ Cabinet
 10 shall provide sufficient training, technical assistance, and other support to the
 11 appropriate cabinets to prepare representatives of the cabinets to adequately
 12 carry out the responsibilities set forth in this subsection.

13 ➔Section 229. KRS 174.420 is amended to read as follows:

14 (1) Any person transporting hazardous materials in the Commonwealth shall carry a
 15 copy of the shipping papers required in 49 C.F.R. (1978), as amended, in the
 16 transporting vehicle while in the Commonwealth.

17 (2) In the event of an accident involving hazardous material, the operator of the vehicle
 18 shall:

19 (a) Notify the Department of Kentucky State Police of the accident within one (1)
 20 hour, who shall then notify the local jurisdiction and any other appropriate
 21 state agency with emergency action responsibility, and

22 (b) Provide the shipping papers to state and local emergency response authorities,
 23 and immediately bring to their attention the fact that the vehicle is transporting
 24 hazardous materials.

25 (3) In addition to the other requirements of this section, any person transporting
 26 hazardous wastes shall carry in the transporting vehicle a copy of a manifest in a
 27 form approved by the **Energy and Environment**~~Environmental and Public~~

1 ~~Protection~~] Cabinet.

2 ➔Section 230. KRS 176.054 is amended to read as follows:

3 The *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet shall
 4 furnish to the Department of Highways such seedlings or young trees as the department
 5 may require, or as may be available. The Department of Highways shall pay to the
 6 *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet the reasonable
 7 value thereof as may be agreed upon between such departments.

8 ➔Section 231. KRS 177.977 is amended to read as follows:

9 (1) The Transportation Cabinet shall publish a directory, including supporting maps
 10 and other documents, designating the official coal road system in coal impact and
 11 coal producing counties which shall include all public highways, roads, bridges, and
 12 streets over which quantities of coal sufficient to significantly affect the condition
 13 and state of repair of such highways, roads, bridges, and streets have been
 14 transported in the immediately preceding year. The cabinet shall further publish the
 15 total county mileage of the official coal road system and the total ton-miles within
 16 each coal impact and coal producing county for said preceding year.

17 (2) Every person, producer or processor shipping or transporting coal over the public
 18 highways, roads, bridges, and streets, shall file with the Transportation Cabinet
 19 information at intervals as the cabinet shall designate by administrative regulation
 20 promulgated pursuant to KRS Chapter 13A, for the purpose of identifying those
 21 highways, roads, and streets comprising the coal road system and the quantities of
 22 coal transported thereon, in order that the cabinet can accurately calculate total ton-
 23 miles within each coal impact and coal producing county. A copy of the information
 24 furnished to the *Energy and Environment*~~[Environmental and Public Protection]~~
 25 Cabinet pursuant to the provisions of KRS 350.0285 and a copy of the information
 26 furnished to the Department for Natural Resources pursuant to the provisions of
 27 KRS 351.070 and 352.420 shall be submitted to the Transportation Cabinet to

1 satisfy the reporting requirements of this subsection and the transportation plan
2 shall be annually updated to reflect in route changes.

3 ➔Section 232. KRS 183.125 is amended to read as follows:

4 (1) The cabinet may purchase necessary insurance to provide adequate protection for
5 the public; its authorized pilots and employees; pilots employed by other
6 departments of state government; aircraft owned, leased or operated by the cabinet;
7 aircraft owned, leased or operated by other departments of state government; the
8 health and lives of persons being transported in aircraft owned, leased or operated
9 by authorized pilots employed by the state.

10 (2) The commissioner~~[executive director]~~ of insurance, upon recommendation of the
11 secretary of the Transportation Cabinet, shall initiate and be responsible for the
12 purchase of such insurance. If other departments of state government desire that
13 their pilots, employees, aircraft and passengers shall be insured under such policy,
14 then the commissioner~~[executive director]~~ of insurance shall prorate the cost of the
15 insurance among the departments participating.

16 (3) Each policy shall contain a provision reciting that the defense of immunity of the
17 state against such liability shall be waived, but only to the extent of the limits of the
18 policy. Judgment against the state in any case shall not exceed the limits of the
19 policy. The venue of action shall be as provided by the civil rules. The limits of
20 liability of the policy shall be determined by the commissioner~~[executive director]~~
21 of insurance, the secretary of the Transportation Cabinet and the commissioners of
22 any other participating departments.

23 (4) Any policy purchased under this section, shall be purchased only from insurers
24 authorized to do business in this state and shall be countersigned by a licensed
25 resident agent.

26 ➔Section 233. KRS 186.021 is amended to read as follows:

27 (1) Except as provided in subsection (2) of this section, a county clerk shall not issue a

1 replacement plate, decal, or registration certificate as provided in KRS 186.180, or a
 2 registration for renewal to any person who on January 1 of any year owned a motor
 3 vehicle on which state, county, city, urban-county government, school, or special
 4 taxing district ad valorem taxes are delinquent.

5 (2) Pursuant to KRS 134.810(4), the owner as defined in KRS 186.010(7)(a) and (c) on
 6 January 1 of any year shall be liable for taxes due on a motor vehicle. A person
 7 other than the owner of record who applies to a county clerk to transfer the
 8 registration of a motor vehicle may pay any delinquent ad valorem taxes due on the
 9 motor vehicle to facilitate the county clerk's transferring registration of the motor
 10 vehicle. The person applying shall not be required to pay delinquent ad valorem
 11 taxes due on any other motor vehicle owned by the owner of record from which he
 12 is purchasing his motor vehicle as a condition of registration.

13 (3) A county clerk shall not issue a replacement plate, decal, or registration certificate
 14 as provided in KRS 186.180, or a registration renewal for any motor vehicle that is
 15 not insured in compliance with KRS 304.39-080. Each applicant for registration
 16 renewal shall present proof of compliance to the county clerk in a manner
 17 prescribed in administrative regulations issued by the Department~~{Office}~~ of
 18 Insurance. On and after January 1, 2006, if the motor vehicle is a personal motor
 19 vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by
 20 the county clerk as provided in KRS 186A.042.

21 ➔Section 234. KRS 186.065 is amended to read as follows:

22 (1) Every state-owned motor vehicle, except as provided in subsection (2), shall have
 23 an official license plate. Except as provided in subsections (2), (3), and (4) on one
 24 (1) door on each side of every state-owned vehicle shall be the great seal of the
 25 Commonwealth and the words "For Official Use Only."

26 (2) The Department of Revenue, the ~~{Cabinets of}~~ Transportation Cabinet, the Justice
 27 and Public Safety Cabinet, the~~{and Environmental and}~~ Public Protection Cabinet,

1 and the Attorney General may authorize registration under KRS 186.020 and be
 2 issued regular license plates for vehicles used for investigatory purposes. The
 3 Administrative Office of the Courts may authorize registration under KRS 186.020
 4 and be issued regular license plates for vehicles used by justices and judges of the
 5 Supreme Court and Court of Appeals.

6 (3) The Governor and the Lieutenant Governor may each use one (1) state-owned
 7 motor vehicle on which it shall not be necessary to have the state seal or the words
 8 "For Official Use Only."

9 (4) The Justices and Judges of the Supreme Court and Court of Appeals may each use
 10 state-owned motor vehicles on which it shall not be necessary to have the state seal
 11 or the words "For Official Use Only."

12 ➔ Section 235. KRS 186.190 is amended to read as follows:

13 (1) When a motor vehicle that has been previously registered changes ownership, the
 14 registration plate shall remain upon the motor vehicle as a part of it until the
 15 expiration of the registration year.

16 (2) A person shall not purchase, sell, or trade any motor vehicle without delivering to
 17 the county clerk of the county in which the sale or trade is made the title, and a
 18 notarized affidavit if required and available under KRS 138.450 attesting to the total
 19 and actual consideration paid or to be paid for the motor vehicle. Any unexpired
 20 registration shall remain valid upon transfer of the vehicle to the new owner. Except
 21 for transactions handled by a motor vehicle dealer licensed pursuant to KRS
 22 Chapter 190, the person who is purchasing the vehicle shall present proof of
 23 insurance in compliance with KRS 304.39-080 to the county clerk before the clerk
 24 transfers the registration on the vehicle. Proof of insurance shall be in the manner
 25 prescribed in administrative regulations promulgated by the Department[Office] of
 26 Insurance pursuant to KRS Chapter 13A. On and after January 1, 2006, if the motor
 27 vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of

1 insurance shall be determined by the county clerk as provided in KRS 186A.042.

2 (3) Upon delivery of the title, and a notarized affidavit if required and available under
3 KRS 138.450 attesting to the total and actual consideration paid or to be paid for the
4 motor vehicle to the county clerk of the county in which the sale or trade was made,
5 the seller shall pay to the county clerk a transfer fee of two dollars (\$2), which shall
6 be remitted to the Transportation Cabinet. If an affidavit is required, and available,
7 the signatures on the affidavit shall be individually notarized before the county clerk
8 shall issue to the purchaser a transfer of registration bearing the same data and
9 information as contained on the original registration receipt, except the change in
10 name and address. The seller shall pay to the county clerk a fee of six dollars (\$6)
11 for his services.

12 (4) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall
13 deliver the registration plate and registration receipt to the county clerk of the
14 county in which the motor vehicle is junked. The county clerk shall return the plate
15 and motor vehicle registration receipt to the Transportation Cabinet. The owner
16 shall pay to the county clerk one dollar (\$1) for his services.

17 (5) A licensed motor vehicle dealer shall not be required to pay the transfer fee
18 provided by this section, but shall be required to pay the county clerk's fee provided
19 by this section.

20 (6) The motor vehicle registration receipt issued by the clerk under this section shall
21 contain information required by the Department of Vehicle Regulation.

22 ➔Section 236. KRS 186.290 is amended to read as follows:

23 (1) The Department of Vehicle Regulation shall provide and receive information on the
24 emissions test status of vehicles registered in the Commonwealth of Kentucky. The
25 Department of Vehicle Regulation shall provide appropriate emissions test and
26 compliance status to the Department of Information Systems for inclusion in the
27 AVIS database.

1 (2) Upon notification to the Department of Vehicle Regulation from a county air
 2 pollution control district or the Energy and Environment~~Environmental and~~
 3 ~~Public Protection~~ Cabinet of expiration of a vehicle emissions compliance
 4 certificate, the Department of Vehicle Regulation shall immediately notify the
 5 person who owns the vehicle that unless evidence of compliance is received within
 6 thirty (30) days, the department shall revoke the registration of the motor vehicle
 7 until:

8 (a) The person presents an emissions certificate to the county clerk and pays the
 9 reinstatement fee required under KRS 186.180; or

10 (b) The person presents proof in the form of an affidavit stating, under penalty of
 11 perjury as set forth in KRS 523.030, that failure to obtain a current emissions
 12 certificate is the result of the inoperable condition of the motor vehicle.

13 (3) The provisions of this section and KRS 186.180, 186.990, 224.20-760, and 224.20-
 14 765 shall not prevent the Transportation Cabinet, a county air pollution district, or
 15 the Energy and Environment~~Environmental and Public Protection~~ Cabinet from
 16 seeking the enforcement or operation of any other statute or ordinance that ensures
 17 the compliance of motor vehicles in the Commonwealth under KRS Chapter 186,
 18 KRS 224.20-710 to 224.20-765, or KRS Chapter 77.

19 (4) The provisions of this section and KRS 186.180, 186.990, 224.20-760, and 224.20-
 20 765 shall apply to vehicles that are registered in a county authorized under KRS
 21 224.20-710 to 224.20-765 or KRS Chapter 77 to conduct vehicle emissions tests.

22 ➔Section 237. KRS 186A.015 is amended to read as follows:

23 (1) Except as provided for in KRS 235.050, the titling and registration of motorboats as
 24 defined in KRS 235.010 shall be administered through the automated motor vehicle
 25 and trailer registration and titling system developed and implemented under the
 26 provisions of KRS 186A.010.

27 (2) The Transportation Cabinet, the Energy and Environment~~Environmental and~~

1 ~~Public Protection~~ Cabinet, the Department of Revenue, and all other agencies of
 2 state government affected by the system are hereby directed to cooperate in the
 3 orderly implementation of this system.

4 (3) The Transportation Cabinet, as far as practicable, and not inconsistent with the
 5 provisions of KRS Chapter 235, shall promulgate administrative regulations
 6 requiring the procedures for boat titling and registration to be consistent with motor
 7 vehicle titling and registration. These administrative regulations may pertain but
 8 shall not be limited to the following:

- 9 (a) Conditions and characteristics of certificate of title forms;
- 10 (b) Comparison and identification of hull identification numbers;
- 11 (c) Application for title or registration;
- 12 (d) Processing of title applications;
- 13 (e) Form of certificate of title;
- 14 (f) Notation of security interests or title;
- 15 (g) Title lien statements;
- 16 (h) Transfer of boat ownership;
- 17 (i) Duplicate certificate of title or registration; and
- 18 (j) Salvage titles.

19 ➔Section 238. KRS 186A.040 is amended to read as follows:

20 (1) The Department of Vehicle Regulation shall provide and receive information on the
 21 insurance status of vehicles registered in the Commonwealth of Kentucky pursuant
 22 to KRS 304.39-087 and 304.39-085. The department shall provide appropriate
 23 insurance information to the Commonwealth Office of Technology for inclusion in
 24 the AVIS database to assist in identifying uninsured motor vehicles.

25 (2) (a) Upon notification to the Department of Vehicle Regulation from an insurance
 26 company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-
 27 085, or on and after January 1, 2006, if the vehicle identification number

1 (VIN) of a personal motor vehicle does not appear in the database created by
2 KRS 304.39-087 for two (2) consecutive reporting months, the department
3 shall immediately make a determination as to the notification of the insured.
4 Notification to the insured shall state that the insured's policy is no longer
5 valid and that the insured shall have thirty (30) days to show proof of
6 insurance to the county clerk. The department shall further inform the insured
7 that if evidence of insurance is not received within thirty (30) days the
8 department shall revoke the registration of the motor vehicle until:

- 9 1. The person presents proof of insurance to the county clerk and pays the
10 reinstatement fee required by KRS 186.180;
- 11 2. The person presents proof in the form of an affidavit stating, under
12 penalty of perjury as set forth in KRS 523.030, that the failure to
13 maintain motor vehicle insurance on the vehicle specified in the
14 department's notification is the result of the inoperable condition of the
15 motor vehicle;
- 16 3. The person presents proof in the form of an affidavit stating, under
17 penalty of perjury as set forth in KRS 523.030, that the failure to
18 maintain motor vehicle insurance on the vehicle specified in the
19 department's notification is the result of the seasonal nature of the
20 vehicle. The affidavit shall explain that when the vehicle is out of
21 dormancy and when the seasonal use of the vehicle is resumed, the
22 proper security will be obtained; or
- 23 4. The person presents proof in the form of an affidavit stating, under
24 penalty of perjury as set forth in KRS 523.030, that he or she requires a
25 registered motor vehicle in order to carry out his or her employment and
26 that the motor vehicle that he or she drives during the course of his or
27 her employment meets the security requirement of Subtitle 39 of KRS

Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by paragraph (a) of this subsection. The notice that the department gives to the county attorney in accordance with paragraph (a) of this subsection shall include a certified copy of the person's driving record which shall include:

1. The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and
2. A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with paragraph (a) of this subsection.

(c) The certified copies sent by the department described in paragraph (b) of this subsection, shall be prima facie evidence of a violation of KRS 304.39-080.

(d) If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

1 (3) (a) In developing the mechanism to electronically transfer information pursuant to
 2 KRS 304.39-087, the commissioner of the Department of Vehicle Regulation
 3 shall consult with the commissioner~~{executive—director}~~ of the
 4 Department~~{Office}~~ of Insurance and insurers of personal motor vehicles to
 5 adopt a standardized system of organizing, recording, and transferring the
 6 information so as to minimize insurer administrative expenses. The
 7 commissioner of vehicle regulation shall to the maximum extent possible
 8 utilize nationally recognized electronic data information systems such as those
 9 developed by the American National Standards Institute or the American
 10 Association of Motor Vehicle Administrators.

11 (b) Notwithstanding any other provision of law, information obtained by the
 12 department pursuant to KRS 304.39-087 shall not be subject to the Kentucky
 13 Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used,
 14 sold, accessed, utilized in any manner, or released by the department to any
 15 person, corporation, or state and local agency, except in response to a specific
 16 individual request for the information authorized pursuant to the federal
 17 Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department
 18 shall institute measures to ensure that only authorized persons are permitted to
 19 access the information for the purposes specified by this section. Persons who
 20 knowingly release or disclose information from the database created by KRS
 21 304.39-087 for a purpose other than those described as authorized by this
 22 section or to a person not entitled to receive it shall be guilty of a Class A
 23 misdemeanor for each release or disclosure.

24 ➔Section 239. KRS 186A.060 is amended to read as follows:

25 The Department of Vehicle Regulation is directed to develop, in cooperation with county
 26 clerks, auto dealers, and the Department of Revenue, Department~~{Office}~~ of Insurance,
 27 and Department of Kentucky State Police, the forms required to record all information

1 pertinent to the initial registration, or titling and taxation, or transfer of registration or title
2 of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize
3 and reduce the amount of paperwork required to apply for, or transfer, a vehicle title.
4 When possible, the title document itself shall be used as the primary form used to effect a
5 transfer of vehicle ownership. When no in-state title exists, then forms shall be designed
6 by the department that require only the appropriate and essential information to effect the
7 application for title. The department shall constantly review the information needs of
8 government agencies and other organizations with the goal of reducing, or eliminating,
9 unnecessary documentation. Information being sought for application for title relevant to,
10 but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or
11 inspector shall be set forth by the cabinet in such a way as to promote flexibility in
12 reaching this goal, except that an applicant for a motor vehicle title shall not be required
13 to provide his or her social security number as part of the application process. The use of
14 an electronic medium shall be employed so that forms can be printed by the automated
15 system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to
16 application, signature, forms, or application transfer record may be construed to be
17 electronic in nature at the discretion of the cabinet as provided for by administrative
18 regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous
19 information in pursuit of a certificate of title shall be guilty of forgery in the second
20 degree.

21 ➔Section 240. KRS 190.100 is amended to read as follows:

- 22 (1) (a) Every retail installment contract shall be in writing in at least eight (8) point
23 type, shall contain all the agreements of the parties, shall be signed by the
24 retail buyer, and a copy thereof shall be furnished to such retail buyer at the
25 time of the execution of the contract;
- 26 (b) No provision of a retail installment contract which purports to provide for the
27 inclusion of title to or a lien upon any goods other than the motor vehicle,

1 accessories and special or auxiliary equipment used in connection therewith
2 which either are the subject of the retail installment sale or are substitution in
3 whole or in part therefor, as security for payment of such time sale price shall
4 be valid or enforceable; but the other provisions of the retail installment
5 contract shall not be affected thereby;

6 (c) No provisions for confession of judgment, power of attorney therefor, or wage
7 assignment contained in any retail installment contract shall be valid or
8 enforceable;

9 (d) If the finance charge applicable to a retail installment contract has been
10 determined by a pre-computed method, the holder of a retail installment
11 contract may collect a delinquency and collection charge on each installment
12 in arrears for a period not less than ten (10) days in an amount not in excess of
13 five percent (5%) of each installment or five dollars (\$5), whichever is the
14 less. In addition to such delinquency and collection charge, the retail
15 installment contract may provide for the payment of attorneys' fees not
16 exceeding fifteen percent (15%) of the amount due and payable under such
17 contract where such contract is referred to an attorney not a salaried employee
18 of the holder of the contract for collection, plus the court costs;

19 (e) Unless notice has been given to the retail buyer of actual or intended
20 assignment of a retail installment contract, payment thereunder or tender
21 thereof made by the retail buyer to the last known holder of such contract shall
22 be binding upon all subsequent holders or assignees; and

23 (f) Upon written request from the retail buyer, the holder of the retail installment
24 contract shall give or forward to the retail buyer a written statement of the
25 total amount unpaid under such contract. A retail buyer shall be given a
26 written receipt for any payment when made in cash.

27 (2) The retail installment contract shall contain the following:

- 1 (a) The cash sale price of the motor vehicle which is the subject matter of the
- 2 retail installment sale;
- 3 (b) The amount of the retail buyer's down payment, whether made in money or
- 4 goods, or partly in money or partly in goods;
- 5 (c) The difference between paragraphs (a) and (b) of this subsection;
- 6 (d) 1. Amount, if any, included for insurance and other benefits; and
- 7 2. Types of coverage and benefits;
- 8 (e) Official fees as defined in KRS 190.090; and
- 9 (f) Principal balance, which is the sum of paragraphs (c), (d), and (e) of this
- 10 subsection.
- 11 (3) The retail installment contract shall contain a definite statement in twelve (12) point
- 12 bold type or larger, that the insurance, if any included in the retail installment sale
- 13 provides or does not provide coverage for personal liability and property damage
- 14 caused to others, as the case may be.
- 15 (4) The amount, if any, included for insurance, shall not exceed the premiums
- 16 chargeable in accordance with applicable rate filings made with the
- 17 commissioner~~executive director~~ of insurance. Every retail seller or sales finance
- 18 company, if insurance on the motor vehicle is included in a retail installment
- 19 contract shall within thirty (30) days after execution of the retail installment
- 20 contract send or cause to be sent to the retail buyer a policy or policies or certificate
- 21 of insurance, which insurance shall be written by a company authorized to do
- 22 business in this state, clearly setting forth the amount of the premium, the kind or
- 23 kinds of insurance and the scope of the coverage and all the terms, exceptions,
- 24 limitations, restrictions and conditions of the contract or contracts of the insurance.
- 25 The buyer of a motor vehicle under a retail installment contract shall have the
- 26 privilege of purchasing such insurance from an agent or broker of his own selection
- 27 and of selecting an insurance company acceptable to the seller; provided, however,

1 that the inclusion of the insurance premium in the retail installment contract when
2 the buyer selects the agent, broker or company, shall be optional with the seller. If
3 any such policy is canceled, the unearned insurance premium refund received by the
4 holder of the contract shall be credited to the final maturing installments of the retail
5 installment contract. For purposes of this subsection, single interest insurance
6 insuring the retail seller or sales finance company shall not be considered insurance
7 on the motor vehicle. Neither a copy of the policy nor a certificate of insurance of
8 this type of insurance shall be sent to the retail buyer.

9 (5) Any sales finance company hereunder may purchase or acquire from any retail seller
10 any retail installment contract on such terms and conditions as may be agreed upon
11 between them. No filing of the assignment, no notice to the retail buyer of the
12 assignment, and no requirement that the retail seller shall be deprived of dominion
13 over the payments thereunder or the goods covered thereby if repossessed by the
14 retail seller shall be necessary to the validity of a written assignment of a retail
15 installment contract as against creditors, subsequent purchasers, pledgees,
16 mortgagees, and lien claimants of the retail seller.

17 (6) An acknowledgment in the body of the retail installment contract by the retail buyer
18 of the delivery of a copy thereof shall be conclusive proof of delivery in any action
19 or proceeding by or against any assignee of a retail installment contract.

20 (7) (a) A "debt cancellation agreement" is a written provision in a retail installment
21 contract, or separate addendum thereto, which provides for cancellation of all
22 or part of an obligation of the buyer or obligor upon the occurrence of a
23 specified event.

24 (b) In accordance with subsection (2)(d) of this section, a debt cancellation
25 agreement shall be itemized by type on the retail installment contract and
26 considered an "other benefit" for which the seller, sales finance company, or
27 other holder may charge the buyer or obligor.

(c) A debt cancellation agreement shall not be considered a contract of, or for, insurance.

➔Section 241. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice and Public Safety Cabinet, the secretary of the ~~Environmental and~~ Public Protection Cabinet, the secretary of the Energy and Environment Cabinet, the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

➔Section 242. KRS 194A.622 is amended to read as follows:

(1) There is hereby created the Kentucky Commission on Autism Spectrum Disorders, which shall consist of the following twenty-two (22) members who shall be initially appointed by July 1, 2005:

(a) The secretary of the Cabinet for Health and Family Services or his or her designee;

(b) The commissioner of the Department for Medicaid Services or his or her designee;

(c) The director of the Kentucky Early Intervention System, Department for Public Health, or his or her designee;

(d) The commissioner of the Department for Mental Health and Mental

- 1 Retardation Services or his or her designee;
- 2 (e) The commissioner of the Department for Aging and Independent Living or his
3 or her designee;
- 4 (f) The chair of the Council on Postsecondary Education or his or her designee;
- 5 (g) The director of the Division of Exceptional Children Services or his or her
6 designee;
- 7 (h) The commissioner of the Department of Vocational Rehabilitation or his or
8 her designee;
- 9 (i) The commissioner~~[executive—director]~~ of the Department~~[Office]~~ of
10 Insurance or his or her designee;
- 11 (j) Two (2) nonvoting ex officio members from the House of Representatives,
12 one (1) representing the majority party and one (1) representing the minority
13 party, who shall be appointed by and serve at the pleasure of the Speaker of
14 the House;
- 15 (k) Two (2) nonvoting ex officio members from the Senate, one (1) representing
16 the majority party and one (1) representing the minority party, who shall be
17 appointed by and serve at the pleasure of the President of the Senate;
- 18 (l) Four (4) professional ASD treatment providers, including at least one (1)
19 mental health provider, one (1) physical health provider, and one (1) complex
20 needs consultant from a special education cooperative, to be appointed by the
21 Governor; and
- 22 (m) Five (5) parents, including three (3) who, at the time of their appointment to
23 the commission, have a child with an ASD who is under eighteen (18) years of
24 age and two (2) who, at the time of their appointment to the commission, have
25 a child with an ASD who is eighteen (18) years of age or older, to be
26 appointed by the Governor.
- 27 (2) In making appointments to the commission, the Governor shall ensure broad

1 representation of Kentucky's citizens who are concerned with the health and quality
2 of life of individuals with an ASD, may appoint individuals who are also members
3 of the Kentucky Council on Developmental Disabilities, and shall consider
4 candidates recommended by the Autism Spectrum Disorders Advisory Consortium
5 of Kentucky.

6 (3) Members shall serve without compensation but shall be reimbursed for their actual
7 expenses incurred in the performance of commission duties in accordance with
8 KRS 45.101 and administrative regulations promulgated thereunder. Members of
9 the commission shall serve until the commission ceases to exist, a successor has
10 been appointed, or until removed for good cause.

11 (4) The Cabinet for Health and Family Services shall provide staff and administrative
12 support for the commission.

13 (5) The chair of the commission shall be designated by the Governor and may be a
14 member in addition to those listed in subsection (1) of this section. The chair of the
15 commission shall establish procedures for the commission's internal procedures.

16 (6) The commission shall meet at least three (3) times per year. The commission shall
17 also meet as often as necessary to accomplish its purpose upon the call of the chair,
18 the request of four (4) or more members, or the request of the Governor.

19 (7) The commission shall develop a comprehensive state plan for creating an integrated
20 system of training, treatments, and services for individuals of all ages with an ASD.
21 The commission shall utilize relevant data and research and consult with
22 appropriate professionals, agencies, institutions, and organizations representing the
23 private and public sectors, including the Kentucky Autism Training Center, to
24 develop the state plan. The state plan shall include the following:

25 (a) An assessment of the diverse needs for services and supports for individuals
26 with an ASD;

27 (b) Identification of state, federal, private, and any other appropriate funding

- 1 sources;
- 2 (c) Development of a comprehensive training plan, which shall include the
- 3 Kentucky Autism Training Center, to meet training needs;
- 4 (d) An analysis of standards for provider training and qualifications, best practice
- 5 standards for services, and the need for additional service providers;
- 6 (e) An evaluation of health benefit plans and insurance coverage for the ~~treatment~~
- 7 of ASD;
- 8 (f) A plan for the identification of individuals of all ages with an ASD and for the
- 9 creation of a statewide ASD registry;
- 10 (g) An analysis of program and service eligibility criteria;
- 11 (h) An assessment of the need for coordinated, enhanced, and targeted special
- 12 education and treatment programs for children with an ASD; and
- 13 (i) A timeline for implementing and monitoring the recommendations of the plan
- 14 statewide. The timeline shall include input from the following:
- 15 1. The Cabinet for Health and Family Services;
- 16 2. The Department for Medicaid Services;
- 17 3. The Department for Public Health;
- 18 4. The Department for Mental Health and Mental Retardation Services;
- 19 5. The Kentucky Early Intervention System;
- 20 6. The Division of Exceptional Children Services;
- 21 7. The Department of Vocational Rehabilitation;
- 22 8. The ~~Department~~Office of Insurance;
- 23 9. The Department of Education;
- 24 10. The Council on Postsecondary Education; and
- 25 11. Other appropriate agencies, professionals, institutions, and organizations
- 26 representing the public and private sectors, including the Kentucky
- 27 Autism Training Center.

- 1 (8) Based upon the comprehensive state plan for an integrated system of training,
2 treatment, and services for individuals of all ages with an ASD, the commission
3 shall make recommendations regarding legislation, administrative regulations, and
4 policies to the Governor and the General Assembly on the following:
- 5 (a) Needs for services and supports for individuals who have an ASD;
 - 6 (b) Funding needs and sources, including state, federal, private, and any other
7 appropriate funding sources;
 - 8 (c) Training needs and a plan to implement a comprehensive training system,
9 which shall include the Kentucky Autism Training Center;
 - 10 (d) Standards for provider training and qualifications, best practice standards for
11 services, and the need for additional providers;
 - 12 (e) Goals for developing health benefit plans that provide insurance coverage for
13 the treatment of ASD;
 - 14 (f) A plan for the identification of individuals of all ages with an ASD and for the
15 creation of a statewide ASD registry;
 - 16 (g) Consistent program and service eligibility criteria;
 - 17 (h) The need for coordinated, enhanced, and targeted special education and
18 treatment programs for individuals with an ASD; and
 - 19 (i) Strategies and timelines for establishing an accountable, cost-efficient, and
20 cooperative system of services that integrates and builds upon existing public
21 and private agencies, programs, and resources.
- 22 (9) The commission shall submit the comprehensive state plan and recommendations to
23 the Governor, the Kentucky Council on Developmental Disabilities, and the
24 Legislative Research Commission by October 1, 2006, at which time the
25 commission shall cease to exist unless reauthorized by the General Assembly.
- 26 (10) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee,
27 which shall include members of the commission, to monitor the implementation of

the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, a report to the Governor and Legislative Research Commission that assesses progress in the implementation of the state plan and that makes recommendations on the need for modifications to the state plan as developed by the Kentucky Commission on Autism Spectrum Disorders. The subcommittee shall prepare, and the council shall submit, the report as it deems appropriate, but no less than biennially, until October 1, 2015.

➔Section 243. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following nine (9) state government members, or their duly appointed designees: the commissioner of education; commissioner of the Governor's Office for Local Development; commissioner~~executive director~~ of the Department~~Office~~ of Housing, Buildings and Construction; secretary of the Energy and Environment~~Environmental and Public Protection~~ Cabinet; secretary of the Cabinet for Health and Family Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation;

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;

- 1 5. Homebuilders;
- 2 6. Urban nonprofit housing organizations;
- 3 7. Rural nonprofit housing organizations;
- 4 8. Urban advocates for the homeless;
- 5 9. Rural advocates for the homeless;
- 6 10. Residents of economically diverse urban neighborhoods;
- 7 11. Residents of economically diverse rural neighborhoods;
- 8 12. Rental property providers;
- 9 13. Advocates for persons with physical disabilities;
- 10 14. Advocates for persons with mental disabilities;
- 11 15. The Kentucky State Building Trades Council;
- 12 16. The Kentucky League of Cities; and
- 13 17. The Kentucky Association of Counties; and
- 14 (c) One (1) member of the Senate and one (1) member of the House of
- 15 Representatives.
- 16 (2) State government members and General Assembly members shall serve on the
- 17 advisory committee during the term of their elected or appointed state government
- 18 positions. Members appointed as provided by subsection (1)(b) of this section shall
- 19 be appointed for four (4) year terms, except that initially five (5) shall be appointed
- 20 for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6)
- 21 shall be appointed for four (4) year terms.
- 22 (3) The advisory committee shall meet at least quarterly and hold additional meetings
- 23 as necessary. Eleven (11) members of the committee shall constitute a quorum for
- 24 the purposes of conducting business and exercising its powers for all purposes.
- 25 (4) Any vacancy shall be filled as provided by the requirements and procedures for the
- 26 initial appointment and only for the remainder of the term of the initial appointment.
- 27 (5) Any at-large member may be removed at any time, with or without cause, by

1 resolution of a majority of the board of directors of the corporation.

2 (6) The advisory committee shall consult with and advise the officers and directors of
3 the corporation concerning matters relating to the Kentucky housing policy.

4 (7) The corporation shall annually report its findings and recommendations regarding
5 the Kentucky housing policy to the Governor and the Interim Joint Committee on
6 Local Government of the Legislative Research Commission.

7 (8) The advisory committee shall elect a presiding officer from among its members and
8 may establish its own rules of procedure which shall not be inconsistent with the
9 provisions of this chapter.

10 (9) Members of the advisory committee shall serve without compensation. Members
11 who are not employees of the Commonwealth shall be entitled to reimbursement for
12 actual expenses incurred in carrying out their duties on the committee.

13 (10) The Kentucky Housing Corporation shall provide the staff and funding for the
14 administrative activities of the advisory committee. The Kentucky Housing
15 Corporation shall perform all budgeting, procurement, and other administrative
16 activities necessary to the functioning of the advisory committee. The advisory
17 committee may authorize studies as it deems necessary and utilize Kentucky
18 Housing Corporation funds and other available resources from the public or private
19 sector to provide housing needs data.

20 ➔Section 244. KRS 198A.040 is amended to read as follows:

21 The corporation shall have all of the powers necessary or convenient to carry out and
22 effectuate the purposes and provisions of this chapter, including but without limiting the
23 generality of the foregoing the power:

24 (1) To make or participate in the making of insured construction loans to sponsors of
25 land development or residential housing; provided, however, that such loans shall
26 be made only upon the determination by the corporation that construction loans
27 have been refused in writing, wholly or in part, from private lenders in the

- 1 Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- 2 (2) To make or participate in the making of insured mortgage loans to sponsors of
3 residential housing; provided, however, that such loans shall be made only upon the
4 determination by the corporation that mortgage loans have been refused in writing,
5 wholly or in part, from private lenders in the Commonwealth of Kentucky upon
6 reasonably equivalent terms and conditions;
- 7 (3) To purchase or participate in the purchase of insured mortgage loans made to
8 sponsors of residential housing or to persons of lower and moderate income for
9 residential housing; provided, however, that any such purchase shall be made only
10 upon the determination by the corporation that mortgage loans have been refused in
11 writing, wholly or in part, from private lenders in the Commonwealth of Kentucky
12 upon reasonably equivalent terms and conditions;
- 13 (4) To make temporary loans from the housing development fund;
- 14 (5) To collect and pay reasonable fees and charges in connection with making,
15 purchasing and servicing its loans, notes, bonds, commitments, and other evidences
16 of indebtedness;
- 17 (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease,
18 sublease, or otherwise; to own, manage, operate, hold, clear, improve, and
19 rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease,
20 mortgage, or otherwise dispose of or encumber such real property where such use of
21 real property is necessary or appropriate to the purpose of the Kentucky Housing
22 Corporation;
- 23 (7) To sell, at public or private sale, all or any part of any mortgage or other instrument
24 or document securing a construction, land development, mortgage, or temporary
25 loan of any type permitted by this chapter;
- 26 (8) To procure insurance against any loss in connection with its operations in such
27 amounts, and from such insurers, as it may deem necessary or desirable;

- 1 (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its
2 corporate purposes, to the modification of the rate of interest, time of payment of
3 any installment of principal or interest, or any other terms of any mortgage loan,
4 mortgage loan commitment, construction loan, temporary loan, contract, or
5 agreement of any kind to which the corporation is a party;
- 6 (10) To acquire, establish, operate, lease, and sublease residential housing for persons
7 and families of lower and moderate income and to enter into agreements or other
8 transactions with any federal, state, or local governmental agency for the purpose of
9 providing adequate living quarters for such persons and families in cities and
10 counties where a need has been found for such housing and where no local housing
11 authorities or other organizations exist to fill such need;
- 12 (11) To include in any borrowing such amounts as may be deemed necessary by the
13 corporation to pay financing charges, interest on the obligations for a period not
14 exceeding two (2) years from their date, consultant, advisory, and legal fees and
15 such other expenses as are necessary or incident to such borrowing;
- 16 (12) To make and publish rules and regulations respecting its lending programs and such
17 other rules and regulations as are necessary to effectuate its corporate purposes;
- 18 (13) To provide technical and advisory services to sponsors of residential housing and to
19 residents and potential residents thereof, including but not limited to housing
20 selection and purchase procedures, family budgeting, property use and maintenance,
21 household management, and utilization of community resources;
- 22 (14) To promote research and development in scientific methods of constructing low
23 cost residential housing of high durability;
- 24 (15) To encourage community organizations to participate in residential housing
25 development;
- 26 (16) To make, execute, and effectuate any and all agreements or other documents with
27 any governmental agency or any person, corporation, association, partnership, or

- 1 other organization or entity, necessary to accomplish the purposes of this chapter;
- 2 (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing,
3 other financing and assistance, and any other aid from any source whatsoever and to
4 agree to, and to comply with, conditions attached thereto;
- 5 (18) To sue and be sued in its own name and plead and be impleaded;
- 6 (19) To maintain an office in the city of Frankfort and at such other place or places as it
7 may determine;
- 8 (20) To adopt an official seal and alter the same at pleasure;
- 9 (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and
10 to prescribe rules, regulations, and policies in connection with the performance of
11 its functions and duties;
- 12 (22) To employ fiscal consultants, engineers, attorneys, real estate counselors,
13 appraisers, and such other consultants and employees as may be required in the
14 judgment of the corporation and to fix and pay their compensation from funds
15 available to the corporation therefor, provided that any personal service contracts
16 entered into shall be subject to review by the Government Contract Review
17 Committee of the Legislative Research Commission;
- 18 (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not
19 required for immediate disbursement in obligations guaranteed by the
20 Commonwealth, the United States, or their agencies or instrumentalities; provided,
21 however, that the return on such investments shall not violate any rulings of the
22 Internal Revenue Service regarding the investment of the proceeds of any federally
23 tax exempt bond issue;
- 24 (24) To make or participate in the making of rehabilitation loans to the sponsors or
25 owners of residential housing; provided, however, that any such rehabilitation loan
26 shall be made only upon the determination by the corporation that the rehabilitation
27 loan was not otherwise available wholly or in part from private lenders upon

1 reasonably equivalent terms and conditions;

2 (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential
3 housing; provided, however, that any such insurance, reinsurance, or waiver shall be
4 made only upon the determination by the corporation:

5 (a) That such insurance or reinsurance is not otherwise available wholly or in part
6 from private insurers upon reasonably equivalent terms and conditions; and

7 (b) That such loan is a reasonably sound business investment; and provided
8 further that insurance may be waived only where the corporation finds that the
9 amount of the loan does not exceed eighty-five percent (85%) of the
10 development costs, or eighty-five percent (85%) of the value of the property
11 secured by the mortgage as determined by at least two (2) appraisers who are
12 independent of the sponsors, builders, and developers;

13 (26) To make grants from appropriated funds, agency and trust funds, and any other
14 funds from any source available to the corporation, to sponsors, municipalities,
15 local housing authorities, and to owners of residential housing for the development,
16 construction, rehabilitation, or maintenance of residential housing and such
17 facilities related thereto as corporation shall deem important for a proper living
18 environment, all on such terms and conditions as may be deemed appropriate by the
19 corporation;

20 (27) To make periodic grants to reduce principal and interest payments on mortgages or
21 rentals payable by persons and families of lower and moderate income;

22 (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a
23 rental payable by a regular member of the United States Armed Forces who
24 names Kentucky as home of record for military purposes, during that
25 member's deployment on active duty outside the United States, or payable by a
26 member of a state National Guard or a Reserve component who names
27 Kentucky as home of record for military purposes, during that member's

1 federal active duty. To qualify for a grant, a member shall meet reasonable
 2 standards established by the corporation, including having family income
 3 equal to or less than two hundred percent (200%) of the state or area median
 4 income; and

5 (b) To provide a member identified in paragraph (a) of this subsection and that
 6 member's Kentucky resident spouse with the educational, technical, and
 7 ombudsman services that are necessary to maintain a mortgage during that
 8 member's federal active duty; and

9 (29) To establish a program to assist persons and families of lower and moderate income
 10 to help defray the cost of assessment and decontamination services required under
 11 KRS 224.01-410. To qualify for the program, a person shall meet reasonable
 12 standards established by the corporation. A person shall not be eligible for the
 13 program if convicted of a felony or found by the corporation to be responsible for
 14 contamination of the relevant property through methamphetamine production. The
 15 corporation shall report on the establishment and use of this program to the
 16 Legislative Research Commission by October 1 of each year.

17 The Kentucky Housing Corporation shall be exempt from the regulations of the
 18 Department~~[Office]~~ of Insurance and the laws of the Commonwealth relating thereto.

19 ➔Section 245. KRS 198B.010 is amended to read as follows:

20 As used in this chapter, unless otherwise provided:

21 (1) "Assembly occupancy" means the occupancy or use of a building or structure or any
 22 portion thereof by a gathering of persons for civic, political, travel, religious, social,
 23 or recreational purposes, including among others:

- 24 (a) Armories;
- 25 (b) Assembly halls;
- 26 (c) Auditoriums;
- 27 (d) Bowling alleys;

- 1 (e) Broadcasting studios;
- 2 (f) Chapels;
- 3 (g) Churches;
- 4 (h) Clubrooms;
- 5 (i) Community buildings;
- 6 (j) Courthouses;
- 7 (k) Dance halls;
- 8 (l) Exhibition rooms;
- 9 (m) Gymnasiums;
- 10 (n) Hotels;
- 11 (o) Lecture rooms;
- 12 (p) Lodge rooms;
- 13 (q) Motels;
- 14 (r) Motion picture theaters;
- 15 (s) Museums;
- 16 (t) Night clubs;
- 17 (u) Opera houses;
- 18 (v) Passenger stations;
- 19 (w) Pool rooms;
- 20 (x) Recreation areas;
- 21 (y) Restaurants;
- 22 (z) Skating rinks;
- 23 (aa) Television studios;
- 24 (bb) Theaters.
- 25 (2) "Attic" means the space between the ceiling beams of the top habitable story and the
- 26 roof rafters.
- 27 (3) "Basement" means that portion of a building the average height of which is at least

1 half below grade, which is ordinarily used for purposes such as storage, laundry
2 facilities, household tool shops, and installation and operation of heating, cooling,
3 and ventilating facilities, but which is not ordinarily used for purposes of general
4 household habitation.

5 (4) "Building" means any combination of materials, whether portable or fixed, which
6 comprises a structure or nonmine underground area affording facilities or shelter for
7 any human occupancy, whether infrequent or regular, and also means single-family
8 dwellings, including those sold or constructed under a trade or brand name. The
9 word "building" shall be construed wherever used herein as if followed by the
10 words "or part or parts thereof and all equipment therein" unless the context clearly
11 requires a different meaning. "Building" shall also mean swimming pools
12 constructed below grade on site, but not swimming pools assembled above grade on
13 site. "Building" shall not mean a manufactured home governed by the National
14 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C.
15 secs. 5401 et seq., or a farm dwelling or other farm buildings and structures incident
16 to the operation and maintenance of the farm if the farm structures are located
17 outside the boundary of a municipality and are not used in the business of retail
18 trade or used as a place of regular employment for ten (10) or more people or
19 structures used in the storage or processing of timber products.

20 (5) "Business occupancy" means the occupancy or use of a building or structure or any
21 portion thereof for the transaction of business, the rendering or receiving of
22 professional services, or the displaying, selling, or buying of goods, wares, or
23 merchandise, or the housing of vehicles of transportation, except where occupancy
24 is of high hazard, including among others:

25 (a) Banks;

26 (b) Barber shops;

27 (c) Beauty parlors;

- 1 (d) Department stores;
- 2 (e) Garages;
- 3 (f) Markets;
- 4 (g) Service stations;
- 5 (h) Offices;
- 6 (i) Stores;
- 7 (j) Radio stations;
- 8 (k) Telephone exchanges; and
- 9 (l) Television stations.

10 (6) "Certified building inspector" means a person who has been certified by the
 11 department~~office~~ as having successfully completed the test requirements provided
 12 by KRS 198B.090 to practice as a city, county, or state building inspector within the
 13 Commonwealth.

14 (7) "Certified plans and specifications inspector" means a person who has been certified
 15 by the department~~office~~ as having successfully completed the test requirements
 16 provided by KRS 198B.090 to practice as a city, county, or state plans and
 17 specifications inspector within the Commonwealth.

18 (8) "Certified plumbing inspector" means a person who has been certified by the
 19 department~~office~~ as having successfully completed the test requirements provided
 20 by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state
 21 plumbing inspector within the Commonwealth.

22 (9) "Commissioner~~Executive director~~" means the commissioner~~executive director~~
 23 of housing, buildings and construction.

24 (10) "Construction" means the erection, fabrication, reconstruction, substantial alteration
 25 or conversion of a building, or the installation of equipment therein, but shall not
 26 include the ordinary repair of a building or structure.

27 (11) "Department~~Office~~" means the Department~~Office~~ of Housing, Buildings and

1 Construction.

2 (12) "Educational occupancy" means the occupancy or use of a building or structure or
3 any portion thereof by persons assembled for the purpose of learning or of receiving
4 educational instruction. "Educational occupancy" shall not include a building for
5 occupancy or use by thirty-five (35) persons or less assembled to receive religious
6 and educational instruction. "Educational occupancy" includes but is not limited to:

- 7 (a) Academies;
- 8 (b) Care centers;
- 9 (c) Colleges;
- 10 (d) Kindergartens;
- 11 (e) Libraries;
- 12 (f) Preschools;
- 13 (g) Relocatable classroom units;
- 14 (h) Schools;
- 15 (i) Seminaries; and
- 16 (j) Universities.

17 (13) "Equipment" means facilities or installations, including but not limited to heating,
18 electrical, ventilating, air conditioning, and refrigerating facilities or installations.

19 (14) "High hazard occupancy" means the occupancy or use of a building or structure or
20 any portion thereof that involves highly combustible, highly flammable, or
21 explosive materials or which has inherent characteristics that constitute a special
22 fire hazard, including among others:

- 23 (a) Aluminum powder factories;
- 24 (b) Charging or filling stations;
- 25 (c) Distilleries;
- 26 (d) Dry cleaning plants;
- 27 (e) Dry dyeing plants;

- 1 (f) Explosive-manufacture, sale or storage;
- 2 (g) Flour and feed mills;
- 3 (h) Gasoline bulk plants;
- 4 (i) Grain elevators;
- 5 (j) Lacquer factories;
- 6 (k) Liquefied petroleum gas;
- 7 (l) Mattress factories;
- 8 (m) Paint factories;
- 9 (n) Pyroxylin-factories, or warehouses; and
- 10 (o) Rubber factories.

11 (15) "Industrial occupancy" means the occupancy or use of a building structure or any
12 portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or
13 processing operations, except for occupancies of high hazard, including among
14 others:

- 15 (a) Assembly plants;
- 16 (b) Creameries;
- 17 (c) Electrical substations;
- 18 (d) Factories;
- 19 (e) Ice plants;
- 20 (f) Laboratories;
- 21 (g) Laundries;
- 22 (h) Manufacturing plants;
- 23 (i) Mills;
- 24 (j) Power plants;
- 25 (k) Processing plants;
- 26 (l) Pumping stations;
- 27 (m) Repair garages;

1 (n) Smokehouses; and

2 (o) Workshops.

3 (16) "Industrialized building system" means any structure or component thereof which is
4 wholly or in substantial part fabricated in an off-site manufacturing facility for
5 installation or assembly on a permanent foundation at the building site.

6 (17) "Institutional occupancy" means the occupancy or use of a building or structure or
7 any portion thereof by persons harbored or detained to receive medical, charitable,
8 or other care or treatment, or by persons involuntarily detained, including among
9 others:

10 (a) Asylums;

11 (b) Homes for the aged;

12 (c) Hospitals;

13 (d) Houses of correction;

14 (e) Infirmarys;

15 (f) Jails;

16 (g) Nursing homes;

17 (h) Orphanages;

18 (i) Penal institutions;

19 (j) Reformatories;

20 (k) Sanitariums; and

21 (l) Nurseries.

22 (18) "Mobile home" means mobile home as defined in KRS 227.550.

23 (19) "Ordinary repair" means any nonstructural reconstruction or renewal of any part of
24 an existing building for the purpose of its maintenance, or decoration, and shall
25 include but not be limited to the replacement or installation of nonstructural
26 components of the building such as roofing, siding, windows, storm windows,
27 insulation, drywall or lath and plaster, or any other replacement, in kind, that does

not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring, or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

(20) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(21) "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he or she is insecure or exposed to danger; a person whose hearing is so impaired that he or she is unable to hear warning signals; and a person whose mobility, flexibility, coordination, and perceptiveness are significantly reduced by aging.

(22) "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety, or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.

(23) "Manufactured home" is defined as in KRS 227.550.

➔ Section 246. KRS 198B.020 is amended to read as follows:

(1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department~~{Office}~~ of Housing, Buildings and Construction comprised of twenty-one (21) members to include: the commissioner~~{executive director}~~ of the department~~{office}~~, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the

1 commissioner of the Department for Public Health, Cabinet for Health and Family
2 Services; the Attorney General or any assistant attorney general he or she may
3 designate to represent the interests of consumers; one (1) professional homebuilder
4 selected by the Governor from a list of three (3) submitted by the Home Builders
5 Association of Kentucky; one (1) registered architect selected by the Governor from
6 a list of three (3) submitted by the Kentucky Society of Architects; one (1)
7 registered structural engineer selected by the Governor from a list of three (3)
8 submitted by the Kentucky Society of Professional Engineers; one (1) registered
9 mechanical engineer selected by the Governor from a list of three (3) submitted by
10 the Kentucky Society of Professional Engineers; one (1) registered electrical
11 engineer selected by the Governor from a list of three (3) submitted by the Kentucky
12 Society of Professional Engineers; one (1) citizen member selected by the Governor
13 to represent the interests of low and moderate-income housing consumers within the
14 Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing
15 general contractor selected by the Governor from a list of three (3) submitted by the
16 Kentucky Association of General Contractors; one (1) practicing code administrator
17 selected by the Governor from a list of three (3) submitted by the Codes
18 Administrators Association of Kentucky; one (1) realtor selected by the Governor
19 from a list of three (3) submitted by the Kentucky Association of Realtors; one (1)
20 member selected by the Governor from a list of three (3) submitted by the Kentucky
21 State Building Trades Council; one (1) member selected by the Governor from a list
22 of three (3) submitted by the Kentucky Association of Plumbing, Heating and
23 Cooling Contractors; one (1) member selected by the Governor from a list of three
24 (3) submitted by the Mechanical Contractors Association; one (1) electrical
25 contractor member selected by the Governor from a list of three (3) submitted by
26 the National Electrical Contractors Association; one (1) retailer member selected by
27 the Governor from a list of three (3) submitted by the Kentucky Retail Federation;

1 and one (1) member selected by the Governor from a list of three (3) submitted by
2 the Kentucky Building Materials Association.

3 (2) Except for the commissioner~~[executive director]~~ of the department~~[office]~~, the
4 commissioner of the Department for Public Health, the executive director of the
5 Kentucky Housing Corporation, and the Attorney General or his or her designee,
6 who shall serve on the board during the term of their existing office and shall be
7 voting members, board members shall be appointed for four (4) year terms, except
8 that initially four (4) shall be appointed for two (2) year terms, four (4) shall be
9 appointed for three (3) year terms, and six (6) shall be appointed for four (4) year
10 terms. No board member shall be appointed for more than one (1) successive term
11 except as provided in subsection (3) of this section. The Governor shall, within the
12 limitations of this subsection, set the length of term of each of the initial appointees
13 to the board.

14 (3) Vacancies occurring on the board among those members appointed by the Governor
15 shall be filled by seeking nominations as in subsection (1) of this section from the
16 organization which originally nominated the member who is to be replaced. A
17 replacement for a board member shall be appointed immediately upon the
18 expiration of the departing board member's term of service. Should a board member
19 vacate his or her position on the board prior to the expiration of the member's term,
20 a replacement member shall be appointed for the period of the unexpired term.
21 Should the unexpired term be less than two (2) years, the person selected to fill the
22 unexpired term may subsequently be appointed to one (1) successive four (4) year
23 term.

24 (4) Members may be removed from the board by the Governor for unethical conduct or
25 for failure to attend three (3) or more successive meetings of the board without
26 reasonable cause.

27 (5) The board shall meet at least quarterly~~ly~~, and the first meeting shall occur no later

1 ~~than August 31, 1978~~. Before assuming their duties, members of the board shall
 2 take an oath as specified in Section 228 of the Constitution of Kentucky.

3 (6) The commissioner~~{executive director}~~ of the department~~{office}~~ shall serve as
 4 chairman of the board. The board may elect from its members other officers as are
 5 required to conduct its business, except that neither the commissioner of the
 6 Department for Public Health, the executive director of the Kentucky Housing
 7 Corporation, nor the Attorney General or his or her designee shall be elected to
 8 office on the board.

9 (7) The board may adopt such rules, regulations, and bylaws as are necessary to
 10 conduct its internal business. Any administrative regulations promulgated by the
 11 board for any purpose other than internal business shall be subject to the
 12 requirements of KRS 198B.040(11).

13 (8) No member of the board may vote on any matter which will result in his or her
 14 direct or indirect financial gain.

15 (9) Those members of the board who are not salaried governmental employees shall be
 16 compensated for their time when attending board meetings or attending to official
 17 duties as directed by the board at the rate of fifty dollars (\$50) per day. All board
 18 members shall be compensated for expenses incurred in the conduct of board
 19 business.

20 ➔Section 247. KRS 198B.030 is amended to read as follows:

21 (1) There is hereby created the Kentucky Department~~{Office}~~ of Housing, Buildings
 22 and Construction within the ~~{Environmental and }~~Public Protection Cabinet. The
 23 ~~{secretary of the Environmental and Public Protection Cabinet shall appoint, with~~
 24 ~~the approval of the }~~Governor shall appoint a commissioner~~, an executive~~
 25 ~~director}~~ to head the department~~{office}~~. The commissioner~~{executive director}~~
 26 shall receive for his or her services such compensation as the Governor shall
 27 determine.

- 1 (2) The commissioner~~[executive director]~~ may employ sufficient staff to carry out the
 2 functions of the commissioner's~~[executive director's]~~ office. Neither the
 3 commissioner~~[executive director]~~ nor any member of his or her staff shall be
 4 employed, either directly or indirectly, in any aspect of the building industry as
 5 regulated by this chapter while employed by the Department~~[Office]~~ of Housing,
 6 Buildings and Construction.
- 7 (3) The department~~[office]~~ shall serve as staff for the board of housing, buildings and
 8 construction as established by this chapter, and shall perform all budgeting,
 9 procurement, and other administrative activities necessary to the functioning of this
 10 body. The board shall prescribe the duties of the commissioner~~[executive director]~~
 11 in addition to those duties otherwise delegated to him or her by the Governor or
 12 secretary, or prescribed for the commissioner~~[executive director]~~ by law. The
 13 department~~[office]~~ or commissioner~~[executive director]~~ shall submit any proposed
 14 administrative regulation to the board and shall not promulgate the administrative
 15 regulation without giving the board the opportunity to produce written comments,
 16 as required by subsection (9) of this section. If the board chooses to produce written
 17 comments, these comments shall be attached to any public submission of the
 18 administrative regulation, including any filing under KRS Chapter 13A.
- 19 (4) The department~~[office]~~ may enter into contracts or agreements with the federal
 20 government, its subdivisions and instrumentalities, other agencies of state
 21 government or with its subdivisions and instrumentalities, or with private profit or
 22 nonprofit organizations in order to effect the purposes of this chapter.
- 23 (5) Subject to the direction of the board of housing, buildings and construction, the
 24 commissioner~~[executive director]~~ shall cooperate with the agencies of the United
 25 States and with the governing bodies and housing authorities of counties, cities, and
 26 with not for profit organizations and area development districts in relation to
 27 matters set forth in this chapter, and in any reasonable manner that may be

1 necessary for the state to qualify for, and to receive grants or aid from such
 2 agencies. To these ends and subject to the direction of the board, the
 3 commissioner~~{executive-director}~~ shall have the power to comply with each
 4 condition and execute such agreements as may be necessary, convenient, or
 5 desirable.

6 (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state
 7 from being designated as the directing or allocating agency, board, or officer for the
 8 distribution of federal grants and aid, or the performance of other duties to the
 9 extent necessary to qualify for and to receive grants and aid for programs under the
 10 administration of the department~~{office}~~.

11 (7) The commissioner~~{executive-director}~~ is authorized to receive, for and on behalf of
 12 the state, the department~~{office}~~, and the board of housing, buildings and
 13 construction, from the United States and agencies thereof, and from any and all
 14 other sources, grants and aid and gifts made for the purpose of providing, or to
 15 assist in providing, any of the programs authorized by this chapter, including
 16 expenses of administration. All such funds shall be paid into the state treasury and
 17 credited to a trust and agency fund to be used by the department~~{office}~~ in carrying
 18 out the provisions of this chapter. No part of this fund shall revert to the general
 19 fund of the Commonwealth.

20 (8) The Kentucky Board of Home Inspectors established in KRS 198B.704 shall be
 21 attached to the department~~{office}~~ for administrative purposes.

22 (9) (a) If the department~~{office}~~ has proposed a new or amended administrative
 23 regulation that directly and clearly relates to the work of a profession, class of
 24 workers, or industry that is under the authority of any board or advisory
 25 committee that is created by statute and is controlled, superseded,
 26 administratively attached, or affiliated with the department~~{office}~~, the
 27 department~~{office}~~ shall not promulgate the proposed administrative

1 regulation without first receiving comments from the affected board or
 2 advisory committee, subject to the restrictions of paragraph (b) of this
 3 subsection.

- 4 (b) 1. If a proposed administrative regulation affects a board or advisory
 5 committee that qualifies under paragraph (a) of this subsection, the
 6 department~~{office}~~ shall distribute the proposed administrative
 7 regulation to the board or advisory committee.
- 8 2. The affected board or advisory committee shall be granted a maximum
 9 of sixty (60) days to submit its comments on the proposed regulatory
 10 change. If the administrative regulation is a new emergency regulation,
 11 the affected board or advisory committee shall be granted a maximum of
 12 thirty (30) days to submit its comments on the proposed regulatory
 13 change.
- 14 3. The time limits in this paragraph shall begin from the day the
 15 department~~{office}~~ submits the regulatory change and sets a date for a
 16 proposed hearing for the comments of the affected board or advisory
 17 committee. If the board or advisory committee is already scheduled to
 18 meet at a time that will give it an adequate opportunity to review the
 19 regulation and respond, the hearing may be held at that meeting.
- 20 4. If a board or advisory committee is not scheduled to meet or meets only
 21 at the call of the department~~{office}~~, the department~~{office}~~ shall
 22 arrange for the board or advisory committee to meet at a time that will
 23 allow the board or advisory committee an adequate opportunity to
 24 review and comment on the regulation within the time limit. If the
 25 affected board or advisory committee fails to comment within the time
 26 limit, the department~~{office}~~ may proceed with the administrative
 27 changes at its discretion.

1 (c) To the extent that any other statute relating to the department's~~office's~~
2 authority to promulgate administrative regulations conflicts with this section,
3 this section shall take precedence.

4 (d) If a board or advisory committee chooses to produce written comments, those
5 comments shall be attached to any public submission of the administrative
6 regulation, including any filing under KRS Chapter 13A.

7 (e) The rights and privileges enumerated in this subsection that apply to boards
8 and advisory committees shall also be granted to the Kentucky Board of
9 Housing, Buildings and Construction.

10 (10) Any power or limitation relating to administrative regulations promulgated by the
11 department~~office~~ that are subject to subsection (9) of this section shall also apply
12 to administrative regulations promulgated by the commissioner~~executive director~~
13 of the department~~office~~.

14 ➔Section 248. KRS 198B.040 is amended to read as follows:

15 The Kentucky Board of Housing, Buildings and Construction shall have the following
16 general powers and duties:

17 (1) To conduct or cause to be conducted studies to determine the needs of the building
18 industry of Kentucky;

19 (2) To conduct or cause to be conducted or participate in studies of the costs of the
20 various factors of building construction and use of buildings and to recommend
21 programs and procedures which will minimize the cost of buildings, including the
22 use of energy, while maintaining safety, durability, and comfort;

23 (3) To administer regulatory legislation relating to buildings and construction;

24 (4) To assume administrative coordination of the various state construction review
25 programs and to cooperate with various federal, state, and local agencies in the
26 programs as they relate to buildings and construction;

27 (5) To assume administration and coordination of various state housing programs to

1 include:

2 (a) Devising and implementing procedures, in conjunction with the Governor's
3 Office for Local Development, for attaining and maintaining an accurate count
4 of the housing inventory in Kentucky, including information on the age,
5 physical condition, size, facilities, and amenities of this housing, and housing
6 constructed and demolished each year;

7 (b) Designing programs coordinating the elements of housing finance, production,
8 maintenance, and rehabilitation for the purpose of assuring the availability of
9 safe, adequate housing in a healthful environment for all Kentucky citizens;

10 (c) Establishing or causing to be established public information and educational
11 programs relating to housing, to include informing Kentucky citizens about
12 housing and housing related programs that are available on all levels of
13 government;

14 (d) Designing and administering, or participating in the design and administration
15 of educational programs to prepare low income families for home ownership,
16 and counseling them during their early years as homeowners;

17 (e) Promoting educational programs to assist sponsors in the development and
18 management of low and moderate income housing for sale or rental;

19 (f) Cooperating with various federal, state, and local agencies in their programs
20 as they relate to housing; and

21 (g) Conducting or causing to be conducted studies to determine the housing
22 preferences of Kentucky citizens and the present and future housing
23 requirements of the state;

24 (6) To recommend state building industry policies and goals to the Kentucky General
25 Assembly;

26 (7) To adopt and promulgate a mandatory uniform state building code, and parts
27 thereof, which shall establish standards for the construction of all buildings, as

1 defined in KRS 198B.010, in the state;

2 (8) To promulgate administrative regulations providing for the proper construction of
 3 public water purification plants, other than the water treatment equipment and
 4 systems in such plants; provided, however, that any such regulations must require
 5 that applications for permits to build public water purification plants will be
 6 submitted by the department~~[office]~~ to the Energy and
 7 Environment~~[Environmental and Public Protection]~~ Cabinet for that cabinet's
 8 comments. Any such regulations shall require the Energy and
 9 Environment~~[Environmental and Public Protection]~~ Cabinet's comments to be
 10 completed and submitted to the department~~[office]~~ within sixty (60) days;

11 (9) To promulgate administrative regulations providing for the proper construction of
 12 sewage treatment plants, other than the sewage treatment equipment and systems in
 13 such plants; provided, however, that any such regulations must require that
 14 applications for permits to build public sewage treatment plants will be submitted
 15 by the department~~[office]~~ to the Energy and Environment~~[Environmental and~~
 16 ~~Public Protection]~~ Cabinet for that cabinet's comments. Any such regulations shall
 17 require the Energy and Environment~~[Environmental and Public Protection]~~
 18 Cabinet's comments to be completed and submitted to the department~~[office]~~
 19 within sixty (60) days; and

20 (10) To promulgate administrative regulations for the safe installation and operation of
 21 plumbing and plumbing fixtures.

22 (11) (a) As used in this subsection, "main board" means the Kentucky Board of
 23 Housing, Buildings and Construction.

24 (b) If the main board has proposed a new or amended administrative regulation
 25 that directly and clearly relates to the work of a profession, class of workers,
 26 or industry that is under the authority of any board or advisory committee that
 27 is created by statute and is controlled, superseded, administratively attached,

1 or affiliated with the main board, the main board shall not promulgate the
2 proposed administrative regulation without first receiving comments from the
3 affected board or advisory committee, subject to the restrictions of paragraph
4 (c) of this subsection.

- 5 (c) 1. If a proposed administrative regulation affects a board or advisory
6 committee that qualifies under paragraph (b) of this subsection, the main
7 board shall distribute the proposed administrative regulation to the board
8 or advisory committee.
- 9 2. The affected board or advisory committee shall be granted a maximum
10 of sixty (60) days to submit its comments on the proposed regulatory
11 change. If the administrative regulation is a new emergency regulation,
12 the affected board or advisory committee shall be granted a maximum of
13 thirty (30) days to submit its comments on the proposed regulatory
14 change.
- 15 3. The time limits in this paragraph shall begin from the day the main
16 board submits the regulatory change and sets a date for a proposed
17 hearing for the comments of the affected board or advisory committee. If
18 the board or advisory committee is already scheduled to meet at a time
19 that will give it an adequate opportunity to review the regulation and
20 respond, the hearing may be held at that meeting.
- 21 4. If a board or advisory committee is not scheduled to meet or meets only
22 at the call of the main board, the main board shall arrange for the board
23 or advisory committee to meet at a time that will allow the board or
24 advisory committee an adequate opportunity to review and comment on
25 the regulation within the time limit. If the affected board or advisory
26 committee fails to comment within the time limit, the main board may
27 proceed with the administrative changes at its discretion.

1 (d) To the extent that any other statute relating to the main board's authority to
 2 promulgate administrative regulations conflicts with this section, this section
 3 shall take precedence.

4 (e) If a board or advisory committee chooses to produce written comments, those
 5 comments shall be attached to any public submission of the administrative
 6 regulation, including any filing under KRS Chapter 13A.

7 (12) Any power or limitation relating to administrative regulations promulgated by the
 8 Kentucky Board of Housing, Buildings and Construction that are subject to
 9 subsection (11) of this section shall also apply to the department~~[office]~~ and
 10 commissioner~~[executive director]~~ as described in KRS 198B.030(9) and (10).

11 ➔Section 249. KRS 198B.050 is amended to read as follows:

12 (1) Within one (1) year from its initial meeting, after adequate notice in accordance
 13 with KRS Chapter 13A, the board shall adopt and promulgate a mandatory Uniform
 14 State Building Code which shall establish standards for the construction of all
 15 buildings, as defined in KRS 198B.010, in the state. The code shall provide that the
 16 review and approval, as necessary, of building plans for conformance with the
 17 Uniform State Building Code prior to construction approval shall be conducted only
 18 by the department~~[office]~~ or a local government or governments delegated such
 19 responsibilities by this chapter, and any exceptions to this policy shall be explicitly
 20 stated in the code.

21 (2) The code shall be comprehensive and shall include but not be limited to provisions
 22 for general construction; structural quality; mechanical systems to include heating,
 23 cooling, and ventilation; electrical systems; and life safety from hazards of fire,
 24 explosion, and other disasters, whether caused by acts of nature or man. The code
 25 shall encompass the Kentucky State Plumbing Code promulgated pursuant to KRS
 26 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the
 27 national electrical code.

1 (3) This code shall be designed after and may be selected from the models offered by
 2 such model code agencies as the Building Officials and Code Administrators,
 3 International, Inc.; the International Conference of Building Officials; the Southern
 4 Building Code Congress; and other nationally recognized organizations which may
 5 include governmental agencies. The code shall:

6 (a) Provide uniform standards and requirements for construction and construction
 7 materials;

8 (b) To the extent practicable, set forth standards, specifications and requirements
 9 in terms of performance objectives, so as to facilitate the use of new
 10 technologies, techniques, and materials. The code shall not discriminate in
 11 favor of particular suppliers' materials, techniques, or technologies;

12 (c) Protect the public health, safety, and welfare within the state.

13 (4) Adoption of a code shall include provisions for the continuing review of, and the
 14 board shall adopt when deemed justified to fulfill the purposes of this chapter, new
 15 materials, technologies, and techniques in the building industry. The board may
 16 adopt a model code promulgated by a model code agency only if that agency
 17 provides a method for democratic participation by the board and any local
 18 governments which may enforce the code, in a continuing review and possible
 19 adoption of new materials, technologies, and techniques in the building industry.

20 (5) The board shall issue regulations, after notice in accordance with KRS Chapter
 21 13A, which are necessary to implement the Uniform State Building Code or to carry
 22 out any other responsibility assigned to said board by this chapter.

23 (6) The board shall monitor the effectiveness of agencies designated by local
 24 governments to enforce the provisions of the Uniform State Building Code.

25 (7) If the board determines that an agency is not enforcing the provisions of the
 26 Uniform State Building Code, it shall direct the department~~[office]~~ to determine
 27 where deficiencies exist. The department~~[office]~~ shall require the local government

1 to correct the deficiencies within sixty (60) days and report to the
2 department~~{office}~~ its method of correcting the deficiencies.

3 (8) If the local government fails to correct the deficiencies, the department~~{office}~~ shall
4 recommend to the board that the department~~{office}~~ be permitted to preempt the
5 local program as provided for in KRS 198B.060(4).

6 (9) The board shall provide for the supply, including amendments and revisions thereto,
7 of sufficient copies of the Uniform State Building Code for all interested parties.

8 ➔Section 250. KRS 198B.060 is amended to read as follows:

9 (1) Each local government shall employ a building official or inspector and other code
10 enforcement personnel as necessary, or shall contract for inspection and code
11 enforcement services in accordance with subsections (8) and (11) of this section to
12 enforce the Uniform State Building Code within the boundaries of its jurisdiction,
13 except that permits, inspections, and certificates of occupancy shall not be
14 mandatory for single-family residences unless a local government passes an
15 ordinance requiring inspections of single-family residences.

16 (2) Local governments shall be responsible for the examination and approval or
17 disapproval of plans and specifications for churches having a capacity of four
18 hundred (400) or less persons, and six thousand (6,000) or less square feet of total
19 floor area, and buildings of no more than three (3) stories in height, exclusive of
20 attic and basement, which do not contain more than twenty thousand (20,000)
21 square feet of floor area, and are not intended for educational, institutional, or high
22 hazard occupancy; or assembly, business, or industrial occupancy in excess of one
23 hundred (100) persons, except churches as stated in this subsection, or for use as a
24 frozen food locker plant as defined in KRS 221.010. Local governments shall be
25 responsible for the issuance and revocation of building permits, licenses,
26 certificates, and similar documents which cover activities within their area of
27 responsibility, and the inspection of all buildings pursuant to the provisions of this

1 chapter and the Uniform State Building Code. Each local government issuing a
2 building or demolition permit or an initial certificate of occupancy on a new
3 structure shall send a copy of the permit or certificate to the
4 commissioner~~[executive director]~~ for his or her use in maintaining an accurate
5 housing inventory for Kentucky.

6 (3) Urban-county governments may determine service districts within their boundaries
7 within which farm dwellings and other farm buildings, not used in the business of
8 retail trade or as a place of regular employment for ten (10) or more people, shall be
9 exempt from the requirements of the Uniform State Building Code. The
10 determination may be reviewed and altered by the board.

11 (4) With the exception of single-family dwellings, the department~~[office]~~ shall be
12 responsible for the examination and approval or disapproval of plans and
13 specifications for all buildings which are not the responsibility of local
14 governments. The department~~[office]~~ may issue and revoke permits, licenses,
15 certificates, and similar documents within its area of responsibility, and shall have
16 concurrent jurisdiction with local governments for the inspection of all buildings
17 pursuant to the provisions of this chapter and the Uniform State Building Code. If
18 the commissioner~~[executive director]~~ determines that the local jurisdiction is not
19 adequately performing any portion of its program, he or she may recommend to the
20 board that the department~~[office]~~ preempt that portion of a local program, except
21 that the commissioner~~[executive director]~~ shall not preempt or assert jurisdiction
22 for the enforcement of the code on single-family dwellings. The
23 commissioner~~[executive director]~~ shall explain his or her reasons for preemption in
24 writing and provide a copy to the board and the local jurisdiction. The local
25 jurisdiction may appeal the recommended preemption directly to the board, and the
26 board shall review the appeal according to the procedures found in subsections (8)
27 to (10) of KRS 198B.070. No preemption by the department~~[office]~~ shall take place

- 1 until the final decision of the board. If the department~~[office]~~ preempts any portion
 2 of a local program, it shall collect the fees applicable to that portion of the program.
- 3 (5) Any local government may petition the commissioner~~[executive director]~~
 4 requesting that additional plan review functions be allocated to that local
 5 government. The petition shall include evidence of the local government's capability
 6 to perform additional plan review functions. The commissioner~~[executive director]~~,
 7 after review of the petition and supporting evidence, may grant or deny to the local
 8 government any part of a request for additional responsibility. If the
 9 commissioner~~[executive director]~~ denies any part of a petition, he or she shall
 10 explain his or her reasons for denial in writing, and provide a copy to the board and
 11 the local government. A local government may appeal the denial directly to the
 12 board, and the board shall review the appeal according to the procedures found in
 13 subsections (8) to (10) of KRS 198B.070. If the local government is granted
 14 additional responsibility by the commissioner~~[executive director]~~ or the board, the
 15 department~~[office]~~ shall hold concurrent jurisdiction over the additional
 16 responsibility, but the local government shall collect any fees for functions it
 17 performs pursuant to the additional responsibility.
- 18 (6) Any local government may also petition the commissioner~~[executive director]~~
 19 requesting that plans and specifications inspection, building inspection, and
 20 approval responsibility relating to the application of local plumbing permits for
 21 local installations be allocated to the local government. The petition shall not be
 22 granted unless the local government has demonstrated to the
 23 commissioner~~[executive director]~~ that it can perform these functions in accordance
 24 with the provisions of KRS 198B.050 to 198B.090.
- 25 (7) The commissioner~~[executive director]~~ shall expedite the review of plans and
 26 specifications by assigning responsibilities and coordinating review activities
 27 among the department's~~[office's]~~ various functional divisions so as to prevent

1 unnecessary duplication in the review of plans and specifications.

2 (8) No building shall be constructed in this state until a local building official and an
3 official representing the department~~{office}~~, if the department~~{office}~~ has
4 jurisdiction, issue a permit for the construction. Nothing in this subsection shall
5 require a single-family dwelling to be permitted or inspected unless a local
6 government has established a building inspection program as set out in this section.

7 (9) The local building official or the representative of the department~~{office}~~ shall issue
8 a permit if the proposed building satisfies the requirements of the Uniform State
9 Building Code and if the party desiring to construct the building has complied with
10 all other legal requirements concerning the location and construction of the
11 building. The applicant for a building permit, by the act of applying for the permit,
12 shall be deemed to have consented to inspection by the local government or the
13 department~~{office}~~, of the building during construction and upon the completion of
14 construction for the purpose of determining that the building is constructed in
15 compliance with the Uniform State Building Code.

16 (10) (a) No permit for building, construction, reconstruction, renovation, demolition,
17 or maintenance or for any activity related to building, construction,
18 reconstruction, renovation, demolition, or maintenance shall be issued by any
19 building department or by any political subdivision of the Commonwealth of
20 Kentucky to any person seeking the permit unless the person shall assure, by
21 affidavit, that all contractors and subcontractors employed, or that will be
22 employed, on activity covered by the permit shall be in compliance with
23 Kentucky requirements for workers' compensation insurance according to
24 KRS Chapter 342 and unemployment insurance according to KRS Chapter
25 341.

26 (b) Any person who fails to comply with the assurances required under paragraph
27 (a) of this subsection upon such finding by a court of competent jurisdiction,